SENATE—*Thursday, February 25, 1993*

(Legislative day of Tuesday, January 5, 1993)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. BYRD].

The PRESIDENT pro tempore. The prayer will be led by the Senate Chaplain, the Reverend Dr. Richard C. Halverson.

Dr. Halverson.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Blessed is the nation whose God is the Lord. Eternal God holy and righteousness in truth and justice help us to understand our times. We are mortified when we hear of two 18-year-olds killing a cabdriver then firebombing a home to eliminate a witness to the killing. We are profoundly concerned for the breakdown of the family, the moral and ethical anarchy which pervades our culture, and the inadequacy of legislation to address them.

Gracious God having just heard Washington's Farewell Address yesterday may we heed his concern; "Of all the dispositions and habits which lead to political prosperity, religion and morality are indispensable supports. In vain would that man claim the tribute of patriotism, who should labor to subvert these great pillars of human happiness, these firmest props of the duties of men and citizens. The mere politician, equally with the pious man, ought to respect and to cherish them. Let it simply be asked, where is the security for property, for reputation, for life, if the sense of religious obligation desert the oaths which are the instruments of investigation in courts of justice? And let us with caution indulge the supposition that morality can be maintained without religion."

Help us mighty God to find our way, in the name of Him who is the Way. Amen.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 11 o'clock, with Senators permitted to speak therein for not to exceed 5 minutes.

The Senator from Texas [Mr. KRUEGER] is included in the previous order to be recognized to speak for up to 10 minutes.

The Senator from Texas is recognized.

Mr. KRUEGER. I thank the Chair.

(The remarks of Mr. KRUEGER pertaining to the introduction of S. 436 and S. 437 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDENT pro tempore. What is the will of the Senate?

The Chair, in its capacity as a Senator from the State of West Virginia, suggests the absence of a quorum. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GRAHAM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. GRAHAM. Thank you, Mr. President.

The PRESIDENT pro tempore. The Senator from Florida is recognized for not to exceed 10 minutes under the order.

Mr. GRAHAM. I thank the Chair.

(The remarks of Mr. GRAHAM pertaining to the introduction of S. 438 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDENT pro tempore. The Senator from Indiana is recognized.

Mr. COATS. I thank the Chair.

(The remarks of Mr. COATS and Mr. MATHEWS pertaining to the introduction of S. 439 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. MATHEWS. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The absence of a quorum has been suggested. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CONRAD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from North Dakota is recognized for not to exceed 5 minutes.

Mr. CONRAD. I thank the Chair.

(The remarks of Mr. CONRAD pertaining to the introduction of S. 445 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDENT pro tempore. The Senator from Washington [Mr. GORTON] is recognized under the order for not to exceed 10 minutes.

THE URUGUAY ROUND

Mr. GORTON. Mr. President, President Clinton, of course, has a number of important issues demanding his attention, and I am pleased that he has chosen to attack first our Nation's economy and the budget deficit. But as he insists on an economic stimulus package that requires huge tax increases with dubious prospects for reducing our deficit, I am dismayed at his tardiness in pursuing the Uruguay round of GATT talks—the success of which would provide $35 billion a year to our economy at no expense to our taxpayers and without adding to our budget deficit.

In other fields, the President's inaction could be harmless and understandable. The GATT talks, though, are on the verge of collapse. European countries have stopped negotiating and have begun reexamining old agreements. Asian countries, which enjoy large trade surpluses, are content to watch the talks flounder. If the Uruguay round is to succeed, or at least not to unravel, the President must push the GATT's member countries to negotiate.

This is not surprising. As the nation with the freest markets and fewest trade barriers, we have the most to gain. We began these talks because the GATT was not serving many new or rapidly growing industries—industries in which the United States excels. We correctly assume that if we lowered tariffs and nontariff barriers in these areas, and gave our companies the opportunity to present complaints to a dispute resolution panel, they can compete with anyone. To that end, the Uruguay round, as it stands, would standardize and reduce tariffs in areas in which the United States has a tremendous amount to gain: services, intellectual property rights, telecommunications, airplane manufacturing, and agriculture.

Complete the agreement and our software, high technology, and entertainment industries can safely export their products under new intellectual property safeguards. Agricultural policy will be regulated by the GATT for the first time, promising further progress in lowering overseas subsidies. Our airline manufacturers will face lower subsidies from all member gov-

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

ernments, expanding upon the 1992 agreement on Airbus subsidies. Telecommunications firms can surmount market access barriers. And poorer countries will open their markets to our rapidly growing service industries, which now account for 30 percent of our exports—a 50-percent increase in share from a decade ago. As I mentioned, under an agreement like the one we were approaching a few months ago, the United States would benefit in an amount of $35 billion a year. The world as a whole would see a gain of $120 billion a year, or approximately one-half of 1 percent of today's gross world product.

For my State, Washington, it would be a great step—better than the proposed economic stimulus package at its best. Even though we are on the west coast and the United States hopes primarily for European concessions in the GATT, it seems to be an agreement tailor-made for Washington State. A round which uses the Dunkel text as a bare minimum would allow our farmers to sell in Europe and compete more directly with Europeans abroad. Our telecommunications firms and software companies, on the cutting edge of their industries, have paid dearly for their innovations by trying to sell to markets which do not respect their copyrights or remain closed because the GATT has not yet addressed their industries. A completed Uruguay round will protect them and ease market access barriers. And finally, the Boeing Co. deserves an agreement limiting overseas subsidies by foreign airplane manufacturers.

Along these lines, I commend the President for the attention he has focused on Airbus subsidies. I support the creation of a commission to study the airline and aerospace industry and make recommendations as to its health. I also look forward to working to lower Airbus subsidies and to ensuring, at the least, that Airbus is adhering to its 1992 agreement to eliminate all subsidies except those in airplane development, and to open its books so all can know what governmental help it receives.

There are a number of issues with respect to that agreement and Airbus' continuing practices that require our scrutiny. Airbus continues to receive financing from European governments, at favorable interest rates, and at no apparent damage to the company's credit rating. Airbus continues to offer walk-away leases—a practice which is not viable for companies that do not receive government support. And while Airbus has pledged to pay back some of its government subsidies, we do not have the access to Airbus' financial books to determine whether it is reneging on this pledge or even super-discounting airplanes.

Much of the information we require should be released in accordance with the 1992 Airbus agreement. We must ensure that Airbus abides by that agreement, and that our Government understands exactly what kind and amount of subsidies Airbus receives. At the least, we deserve to know what support our competitors are receiving from governments. And as this effort proceeds, I ask the President to pursue the GATT talks so that Boeing is not soon competing with other governments that subsidize airplane manufacturing.

I respect the Clinton administration's need for time in formulating a sound trade policy. I hope, though, that this formulation occurs simultaneously with efforts to keep the Uruguay round—nearly 7 years of work—alive. What is more, as the world waits to discover this policy, I urge the administration to be more sensitive to the perceptions it creates through its smaller gestures. Recently, the world has seen these glimpses of the Clinton administration's trade policy: a perilous slowness, including a reexamination of old agreements, in pursuing the Uruguay round; a duty on imported steel; a promise to raise the tariffs on minivans by 1,000 percent; a desire for Super 301 authority; a threat to bar European countries from bidding on contracts with the Federal Government; and a threat by Ambassador Kantor to back out of the GATT rules on Government procurement. Clearly, the Clinton administration has created an image of semiprotectionism, and granted the protectionist sectors of the EC a reprieve.

I am confident that the President will work to improve this image. More importantly, however, I urge him to take immediate steps to keep the Uruguay round alive. It is essential to our economic security, and a natural for our efforts to find revenue sources that don't require higher taxes.

(The remarks of Mr. GORTON pertaining to the introduction of S. 440 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. NICKLES addressed the Chair.

The PRESIDENT pro tempore. The Senator from Oklahoma [Mr. NICKLES] is recognized for not to exceed 5 minutes.

PRESIDENT CLINTON'S ECONOMIC PROPOSAL

Mr. NICKLES. Mr. President, I thank my friend and colleague, Senator SPECTER, of Pennsylvania, for his courtesy.

Mr. President, there has been a lot of confusion the last couple of weeks over President Clinton's economic proposal, particularly how much of it is taxes and how much of it is spending. I have done a lot of work, along with Senator DOMENICI, of the Budget Committee, to analyze this proposal. I will be inserting in the RECORD several tables that I think will help show the American people in a very simple and very understandable way the basic components of the President's economic proposal.

First, let me say I am very pleased President Clinton has decided to postpone the so-called economic stimulus package because, clearly, that package would increase the deficit this year. According to his budget figures, it would increase the deficit this year by at least $13 billion—and, over the next 2 years by at least $30 billion. I think that is a serious mistake. I am glad he has postponed it. I am pleased he is listening to many of the freshman Members of the House, who have recommended we postpone that package. I do not think we can afford a jobs package that will cost $55,000 per job created—Federal job created, I might mention.

Mr. President, let me provide some details and some facts. What is the total amount of new taxes proposed by President Clinton over the next 5 years? The answer to that is $360 billion. I might mention, too, that he has proposed user fees of $25 billion, many of which are direct taxes, Medicare taxes, and so on. Also, he has called for cutting taxes by $67 billion. So net new taxes equal $293 billion or 63 percent of his so-called deficit reduction package. The New user fees account for another 5 percent.

What about defense spending cuts? He has proposed spending cuts in defense of $112 billion over that of President Bush over the next 5 years. So, defense cuts account for 24 percent of the deficit reduction package.

What about nondefense spending cuts? I have heard President Clinton saying throughout the country: We're going to bite the bullet, we're going to cut spending. He has proposed cuts in domestic discretionary spending of $71 billion over the next 5 years and cuts in entitlement spending of $78 billion for total nondefense spending cuts of $149 billion. What we do not hear is that he also has proposed massive new spending increases in nondefense areas that total $178 billion over the next 5 years. Thus, if you look at nondefense domestic spending, he has proposed $178 billion in new spending, and spending cuts of only $149 billion. In other words, his spending increases greatly exceed his spending cuts. I hope that message will sink into the American people. His spending increases greatly exceed his spending cuts.

So let's put this in perspective. President Clinton has proposed the largest tax increase in American history, $360 billion. He has proposed very small tax cuts, supposedly to stimulate business, of $67 billion for a net tax increase of $293 billion. That is still the largest tax increase in American history.

President Clinton has proposed massive defense cuts greatly exceeding those of President Bush, he has $178

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billion in new nondefense spending, and he has proposed nondefense spending cuts of $149 billion.

Mr. President, I will support most of those spending cuts. I may support them all if we consider them in one package. But I do not support $178 billion in new spending.

I have heard the President say, "Republicans, make your suggestions, I am willing to hear them."

I will make a couple of suggestions. First, let's not pass an economic stimulus package that increases the deficit by $30 billion, and, second, let's not pass $178 billion of new spending.

Finally, President Clinton talked about getting the deficit down. Last year the deficit was $290 billion. Under this program, in 1993 it goes up to $332 billion, and in 1998 it is $241 billion. This is not a serious deficit reduction package.

Mr. President, for the RECORD, I would like to include the tables I have referred to, in addition to tables that show where the new spending comes from. For example, President Clinton has proposed spending an additional $16 billion on the earned income tax credit, even though the cost of the earned income tax credit went up by 55 percent last year.

President Clinton proposes an additional $14 billion in Head Start, an additional $14 billion in the AIDS initiative, an additional $12 billion on food stamps. Food stamps grew at 21 percent last year. Mr. President, I can go on down the list. I will not do that because of the time restraints. I will include for the RECORD this table with all the new major spending requests in President Clinton's budget. I will also detail his spending reductions, many of which are kind of what I would call smoke and mirrors. They include "streamlining Government," which he says is going to save $12 billion and "other administrative savings," for another $11.2 billion.

Also, Mr. President, I have a table that specifies where his new tax revenues will come from. I think it is important for the American people to see that information.

In addition, I would like to include some tables that show the growth of entitlement programs. I think that information will help people have a better perspective on the growth of Government.

One final table I will include shows the growth of the Unemployment Compensation Program. The House recently passed another unemployment extension bill. Another $5.7 billion to increase the deficit. I'm going to oppose that bill, Mr. President, because the cost of that program likewise has exploded, and the table which I am including will clearly show that.

Mr. President, I ask unanimous consent that the tables I just mentioned be printed in the RECORD.

There being no objection, the charts were ordered to be printed in the RECORD, as follows:

SUMMARY OF THE CLINTON BUDGET PLAN, FISCAL YEARS 1993–98

[Dollars in billions compared to Clinton's uncapped baseline]

Deficit reduction category	Fiscal years 1993–98	As a percent of total
Total new taxes	$360	78
Tax cuts	(67)	−15
Net new taxes	293	63
New user fees and other receipts	25	5
Cuts in defense spending	112	24
Cuts in domestic spending	71	15
Cuts in entitlement spending	78	17
Domestic spending increases	(178)	−39
Net spending reductions	82	18
Debt service savings	62	13
Total deficit reduction	462	100

Note.—Items which increase the deficit are shown in (parenthesis). Details may not add to totals due to rounding.

SUMMARY OF THE CLINTON BUDGET PLAN, FISCAL YEARS 1993–97

[Dollars in billions compared to Clinton's uncapped baseline]

Deficit reduction category	Fiscal years 1993–97	As a percent of total
Total new taxes	$271	86
Tax cuts	(54)	−17
Net new taxes	216	69
New user fees and other receipts	15	5
Cuts in defense spending	76	24
Cuts in domestic spending	49	15
Cuts in entitlement spending	52	16
Domestic spending increases	(129)	−41
Net spending reductions	46	15
Debt service savings	35	11
Total deficit reduction	313	100

Note.—Items which increase the deficit are shown in (parenthesis). Details may not add to totals due to rounding.

CLINTON'S DEFICITS

	Deficit
1992 (actual)	$290,000,000,000
1993	332,000,000,000
1994	262,000,000,000
1997	206,000,000,000
1998	241,000,000,000
2003	400,000,000,000

SUMMARY OF UNEMPLOYMENT EXTENSION LEGISLATION

Bill	Date	Extension (weeks)	Cost (billions/5 yrs)	DN vote
H.R. 3575	Nov. 15, 1991	6/13/20	$5.6	Y.
H.R. 4095	Feb. 4, 1992	13	2.4	Y.
H.R. 5260	July 2, 1992	20/26	5.3	Voice.
Clinton plan		20/26	6.4	

UNEMPLOYMENT COMPENSATION

	Outlays	Dollar growth	Percentage growth	Percentage of GDP
Year:				
1980	16.9			0.6
1981	18.3	1.4	8.3	.6
1982	22.2	3.9	21.3	.7
1983	29.7	7.5	33.8	.9
1984	17.0	(12.7)	−42.8	.5
1985	15.8	(1.2)	−7.1	.4
1986	16.1	.3	1.9	.4
1987	15.5	(.6)	−3.7	.3
1988	13.6	(1.9)	−12.3	.3
1989	13.9	.3	2.2	.3
1990	17.5	3.6	25.9	.3
1991	25.1	7.6	43.4	.4
1992	36.9	11.8	47.0	.6

NEW SPENDING IN THE CLINTON BUDGET PLAN

[Dollars billions above baseline levels]

	Fiscal years—	
	1993–97	1993–98
New spending:		
Earned income tax credit (outlays)	11.916	16.072
Head Start	9.784	14.346
AIDS initiative	9.331	14.027
Food stamps	9.000	12.000
Federal Aid Highway Program	8.399	9.860
National service	6.045	9.445
Education reform	6.152	9.235
Dislocated worker assistance	4.598	6.598
Extended unemployment compensation	4.000	6.400
Clean Water Act funds	2.700	4.366
WIC	2.709	3.709
JTPA Summer Youth	3.037	3.662
National Science Foundation	2.504	3.604
Government automation	2.649	3.384
VA medical care	2.475	3.336
Crime initiative	2.298	3.216
Low income home energy assistance	1.947	2.945
Mass transit	1.924	2.810
CDBG	2.536	2.966
National Institute of Standards	1.423	2.228
Safe Drinking Water Act funds	1.328	2.168
Environment protection	1.531	2.069
Subtotal, major provisions	98.286	138.446
Other provisions	31.111	39.728
Total new spending	129.397	178.174

SPENDING REDUCTIONS IN THE CLINTON BUDGET PLAN

[Dollars in billions above baseline levels]

	Fiscal years—	
	1993–97	1993–98
Discretionary spending cuts:		
Streamlining Government	7.928	12.124
Federal pay freeze and lower COLA's	8.346	11.311
Other administrative savings	7.699	11.252
Cut 100,000 Federal employees	7.927	10.518
Wastwater treatment grants authorization	4.104	6.311
Reduce international security assistance	1.583	2.526
Eliminate low priority transportation projects	1.332	1.749
Reforms in light of new crime initiative	1.154	1.704
Reduce overhead rate on university R&D	1.238	1.634
Implement uranium enrichment initiative	1.275	1.615
Improve management of VA hospitals	1.000	1.500
Create new farm service organization	.730	1.133
Eliminate unnecessary nuclear reactor R&D	.820	1.099
Reform campus based aid	.732	1.044
Subtotal, major provisions	45.868	65.520
Other provisions	2.632	5.380
Total discretionary spending cuts	48.500	70.900
Entitlement spending cuts:		
Medicare reform and cost controls	28.792	42.137
End lump-sum pension benefit	5.132	8.329
Farm program modifications	3.789	5.860
Eliminate mandatory medicaid care	4.085	5.845
Reform student loan program	1.337	3.170
Subtotal, major provisions	43.135	65.341
Other provisions	8.565	12.459
Total entitlement spending cuts	51.700	77.800
Total defense spending cuts	75.500	111.800
Total reductions in spending	175.700	260.500

NEW REVENUES IN THE CLINTON BUDGET PLAN

[dollars in billions above baseline levels]

	Fiscal years—	
	1993—1997	1993—1998
New taxes:		
Individual income tax increase and surtax	96.8	124.5
Energy tax	49.0	71.4
Corporate tax increase	24.4	30.2
Social Security tax from 50 percent to 85 percent	21.4	29.1
Medicare taxable wage base increase	22.0	29.2
Business meals deduction restriction	12.1	16.1
Gas tax 2.5 cent extension	5.2	7.8
Subtotal, major provisions	230.9	308.3
Other provisions	39.6	52.0
Total new taxes	270.5	360.3

NEW REVENUES IN THE CLINTON BUDGET PLAN—Continued

[dollars in billions above baseline levels]

	Fiscal years— 1993—1997	1993—1998
Tax cuts:		
Small business investment tax credit	(12.3)	(15.8)
Earned income tax credit (revenues)	(7.9)	(10.7)
Expanded R&D tax credit	(6.4)	(8.6)
Temporary incremental investment tax credit	(9.1)	(8.6)
Enterprise zones	(2.4)	(4.1)
Low income housing tax credit	(2.6)	(4.0)
Employer provided education assistance	(1.9)	(2.5)
Targeted jobs tax credit	(1.4)	(2.0)
AMT depreciation preference	(1.3)	(1.6)
Subtotal, major provisions	(45.4)	(57.9)
Other provisions	(9.0)	(9.4)
Total tax cuts	(54.4)	(67.3)
New user fees, premiums and other receipts:		
Medicare premium increase	5.0	11.6
FCC spectrum auction	4.1	4.4
Customs user fees	1.1	1.7
FDA user fees	1.0	1.4
Hardrock mining fees and royalties	.8	1.1
Subtotal, major provisions	12.0	20.3
Other provisions	3.2	4.2
Total new user fees, etc	15.2	24.5
Total new revenues	231.3	317.5

FEDERAL SPENDING CATEGORIES

[In billions of nominal dollars]

Year	Outlays	Growth	Percent growth	Percent of GDP
Mandatory (except Social Security):				
1980	$174.4			6.4
1981	202.7	$28.3	16.2	6.7
1982	218.8	16.1	7.9	6.9
1983	243.1	24.3	11.1	7.1
1984	230.2	(12.9)	−5.3	6.1
1985	203.0	33.4	14.5	6.5
1986	263.2	(.4)	−.2	6.2
1987	265.1	1.9	.7	5.8
1988	277.4	12.3	4.6	5.7
1989	295.8	18.4	6.6	5.6
1990	320.9	25.1	8.5	5.8
1991	367.4	46.5	14.5	6.4
1992	426.1	50.7	10.0	7.2
International:				
1980	12.8			.5
1981	13.6	.8	6.2	.4
1982	12.9	(.7)	−5.1	.4
1983	13.6	.7	5.4	.4
1984	16.3	2.7	19.9	.4
1985	17.4	1.1	6.7	.4
1986	17.7	.3	1.7	.4
1987	15.2	(2.5)	−14.1	.3
1988	15.7	.5	3.3	.3
1989	16.6	.9	5.7	.3
1990	19.1	2.5	15.1	.3
1991	19.7	.6	3.1	.3
1992	19.2	(.5)	−2.5	.3
Social Security:				
1980	117.1			4.3
1981	137.9	20.8	17.8	4.6
1982	153.9	16.0	11.6	4.9
1983	168.5	14.6	9.5	4.9
1984	176.1	7.6	4.5	4.7
1985	186.4	10.3	5.0	4.6
1986	196.5	10.1	5.4	4.6
1987	205.1	8.6	4.4	4.5
1988	216.8	11.7	5.7	4.4
1989	230.4	13.6	6.3	4.4
1990	246.5	16.1	7.0	4.5
1991	266.8	20.3	8.2	4.7
1992	285.1	18.3	6.9	4.8
Domestic:				
1980	129.1			4.8
1981	136.5	7.4	5.7	4.5
1982	127.4	(9.1)	−6.7	4.0
1983	130.0	2.6	2.0	3.8
1984	135.3	5.3	4.1	3.6
1985	145.7	10.4	7.7	3.6
1986	147.5	1.8	1.2	3.5
1987	147.2	(.3)	−.2	3.2
1988	158.4	11.2	7.6	3.2
1989	169.0	10.6	6.7	3.2
1990	182.5	13.5	8.0	3.3
1991	195.4	12.9	7.1	3.4
1992	213.9	18.5	9.5	3.6
Defense:				
1980	134.6			5.0
1981	158.0	23.4	17.4	5.2
1982	185.9	27.9	17.7	5.9
1983	209.9	24.0	12.0	6.2

FEDERAL SPENDING CATEGORIES—Continued

[In billions of nominal dollars]

Year	Outlays	Growth	Percent growth	Percent of GDP
1984	228.0	18.1	8.6	6.0
1985	253.1	25.1	11.0	6.3
1986	273.8	20.7	8.2	6.4
1987	282.5	8.7	3.2	6.2
1988	290.9	8.4	3.0	5.9
1989	304.0	13.1	4.5	5.8
1990	300.1	(3.9)	−1.3	5.4
1991	319.7	19.6	6.5	5.6
1992	304.3	(15.4)	−4.8	5.1
Net interest:				
1980	52.5			1.9
1981	68.8	16.3	31.0	2.3
1982	85.0	16.2	23.5	2.7
1983	88.8	4.9	5.6	2.6
1984	111.1	21.3	23.7	2.9
1985	129.5	18.4	16.6	3.2
1986	136.0	6.5	5.0	3.2
1987	138.7	2.7	2.0	3.1
1988	151.8	13.1	9.4	3.1
1989	169.3	17.5	11.5	3.2
1990	184.2	14.9	8.8	3.3
1991	194.5	10.3	5.6	3.4
1992	199.4	4.9	2.5	3.4
Earned income tax credit:				
1980	1.3			
1981	1.3			
1982	1.2	(.1)	−7.7	
1983	1.2			
1984	1.2			
1985	1.1	(.1)	−8.3	
1986	1.4	.3	27.3	
1987	1.4			
1988	2.7	1.3	92.9	.1
1989	4.0	1.3	48.1	.1
1990	4.4	.4	10.0	.1
1991	4.9	.5	11.4	.1
1992	7.6	2.7	55.1	.1
Unemployment compensation:				
1980	16.9			.6
1981	18.3	1.4	8.3	.6
1982	22.2	3.9	21.3	.7
1983	29.7	7.5	33.8	.9
1984	17.0	(12.7)	−42.8	.5
1985	15.8	(1.2)	−7.1	.4
1986	16.1	.3	1.9	.4
1987	15.5	(.6)	−3.7	.3
1988	13.6	(1.9)	−12.3	.3
1989	13.9	.3	2.2	.3
1990	17.5	3.6	25.9	.3
1991	25.1	7.6	43.4	.4
1992	36.9	11.8	47.0	.8
Medicare:				
1980	34.0			1.3
1981	41.3	7.3	21.5	1.4
1982	49.2	7.9	19.1	1.6
1983	55.5	6.3	12.8	1.6
1984	61.0	5.5	9.9	1.6
1985	69.7	8.7	14.3	1.7
1986	74.2	4.5	6.5	1.7
1987	79.9	5.7	7.7	1.8
1988	85.7	5.8	7.3	1.7
1989	94.3	8.6	10.0	1.8
1990	107.4	13.1	13.9	1.9
1991	114.2	6.8	6.3	2.0
1992	129.4	15.2	13.3	2.2
Medicaid:				
1980	14.0			.5
1981	16.8	2.8	20.0	.6
1982	17.4	.6	3.6	.6
1983	19.0	1.6	9.2	.6
1984	20.1	1.1	5.8	.5
1985	22.7	2.6	12.9	.6
1986	25.0	2.3	10.1	.6
1987	27.4	2.4	9.6	.6
1988	30.5	3.1	11.3	.6
1989	34.6	4.1	13.4	.7
1990	41.1	6.5	18.8	.7
1991	52.5	11.4	27.7	.9
1992	67.8	15.3	29.1	1.1
Food Stamps:				
1980	9.1			.3
1981	11.3	2.2	24.2	.4
1982	11.0	(.3)	−2.7	.3
1983	11.8	.8	7.3	.3
1984	11.6	(.2)	−1.7	.3
1985	11.7	.1	.9	.3
1986	11.6	(.1)	−.9	.3
1987	11.6			.3
1988	12.3	.7	6.0	.3
1989	12.8	.5	4.1	.2
1990	15.0	2.2	17.2	.3
1991	18.7	3.7	24.7	.3
1992	22.6	3.9	20.9	.4
Family Support (AFDC):				
1980	7.3			.3
1981	8.2	.9	12.3	.3
1982	8.0	(.2)	−2.4	.3
1983	8.4	.4	5.0	.2
1984	8.9	.5	6.0	.2
1985	9.2	.3	3.4	.2
1986	9.9	.7	7.6	.2
1987	10.5	.6	6.1	.2
1988	10.8	.3	2.9	.2
1989	11.2	.4	3.7	.2

FEDERAL SPENDING CATEGORIES—Continued

[In billions of nominal dollars]

Year	Outlays	Growth	Percent growth	Percent of GDP
1990	12.2	1.0	8.9	.2
1991	13.5	1.3	10.7	.2
1992	15.6	2.1	15.6	.3
Farm price supports:				
1980	2.8			.1
1981	4.0	1.2	42.9	.1
1982	11.7	7.7	192.5	.4
1983	18.9	7.2	61.6	.6
1984	7.3	(11.6)	−61.4	.2
1985	17.7	10.4	142.5	.4
1986	25.8	8.1	45.8	.6
1987	22.4	(3.4)	−13.2	.5
1988	12.2	(10.2)	−45.5	.2
1989	10.6	(1.6)	−13.1	.2
1990	6.5	(4.1)	−38.7	.1
1991	10.1	3.6	55.4	.2
1992	8.3	(.8)	−7.9	.2
Federal retirement and disability:				
1980	26.6			1.0
1981	31.2	4.8	17.3	1.0
1982	34.3	3.1	9.9	1.1
1983	36.5	2.2	6.4	1.1
1984	38.0	1.5	4.1	1.0
1985	38.5	.5	1.3	1.0
1986	41.3	2.8	7.3	1.0
1987	43.7	2.4	5.8	1.0
1988	46.8	3.1	7.1	1.0
1989	49.1	2.3	4.9	.9
1990	51.9	2.8	5.7	.9
1991	56.0	4.1	7.9	1.0
1992	58.7	2.7	4.8	1.0
Veterans benefits and services:				
1980	14.0			.5
1981	15.4	1.4	10.0	.5
1982	15.8	.4	2.6	.5
1983	15.9	.1	.6	.5
1984	16.0	.1	.6	.4
1985	15.9	(.1)	−.6	.4
1986	15.7	(.2)	−1.3	.4
1987	15.7			.3
1988	17.6	1.9	12.1	.4
1989	17.7	.1	.6	.3
1990	15.9	(1.8)	−10.2	.3
1991	17.3	1.4	8.8	.3
1992	19.6	2.3	13.3	.3
Other mandatory:				
1980	48.4			1.8
1981	54.9	6.5	13.4	1.8
1982	48.0	(6.9)	−12.6	1.6
1983	46.2	(1.8)	−3.7	1.4
1984	49.1	2.9	6.3	1.3
1985	61.3	12.2	24.8	1.5
1986	42.2	(19.1)	−31.2	1.0
1987	37.0	(5.2)	−12.3	.8
1988	45.2	8.2	22.2	.9
1989	47.6	2.4	5.3	.9
1990	49.0	1.4	2.9	.9
1991	55.1	6.1	12.4	1.0
1992	58.6	3.5	6.4	1.0

Mr. NICKLES. Mr. President, I thank you for your courtesy, and I thank the Senator from Pennsylvania for his courtesy as well.

Mr. SPECTER addressed the Chair.

EXTENSION OF MORNING BUSINESS

The PRESIDENT pro tempore. The Senator from Pennsylvania [Mr. SPECTER] is recognized under the order for not to exceed 15 minutes, with morning business extended accordingly, at which time morning business will be closed, under the order.

Mr. SPECTER. Mr. President, at the outset, I congratulate our distinguished colleague, the President pro tempore, for sitting and presiding considering his very busy schedule.

(The remarks of Mr. SPECTER pertaining to the submission of Senate Concurrent Resolution 11 are located in today's RECORD under "Submissions of Concurrent and Senate Resolutions.")

MIDEAST PEACE

Mr. SPECTER. Today, I would like to briefly discuss the observations I made on a recent trip with Senator JAMES JEFFORDS and Senator HANK BROWN, to Croatia and to the Mideast during the period from February 5 to February 14, that is, earlier this month.

Enroute to the Mideast we made a stop at Zagreb, Croatia, where we had an opportunity to observe conditions locally and to meet with Croatia President Franjo Tudjman. We saw and heard of the tremendous suffering which is being inflicted in the former nation of Yugoslavia. We saw a U.S. military operation, the 212th Mobile Army Surgical Hospital. We heard from victims of torture and brutality, and we heard comments about rapes and about very brutal and inhuman conduct which has been replayed on television and in the news media. All of this points to an urgent need to try to do something about that situation.

I applaud President Clinton's recent move on the airlifts and the airdrops and hope that that will provide some relief.

We then traveled to Syria where we met with Foreign Minister Farouk Shara in a very useful discussion. We were pleased to hear that the Syrians do not consider the deportee issue one which is linked to the peace process. Foreign Minister Shara expressed concern that there had to be a solution of the issue of some 400 people deported from Israel but he did not say that that was indispensable to moving ahead with the peace process.

We talked about the issue of the Golan Heights, and that is obviously a matter which is going to have to be worked out between the parties. But, to the extent that the United States can be helpful, it is obviously desirable. We were pleased to hear Foreign Minister Shara say spontaneously that the presence of U.N. forces on the Golan would be accommodated without Syrian objection. And it may be that there can be other instrumentalities of demilitarization there.

I express no opinion on the subject because that is something which has to be worked out between the two countries, between Syria and Israel. But I thought his comments were significant in that regard.

I had an opportunity to visit synagogues in both Damascus and Aleppo, Syria, and saw signs which were reassuring about freedom of religion. However, I also saw considerable signs and heard many comments about limitations on allowing Syrian Jews to leave Syria. The Syrian Government had altered its policy on permitting exit visas, but there are many Jews who are not being permitted to leave Syria, and that is a situation which has to be rectified.

I was pleased to see that Secretary of State Warren Christopher took that subject up with Syrian officials on his recent trip there. And there is a fuller statement which I will not go into now as to the specific numbers because of the brevity of time.

Our group then traveled to Jordan where we had a chance to meet with King Hussein and Queen Noor, and earlier with the Prime Minister of Jordan. And we were blunt in our discussions there, especially with the Prime Minister, on outlining the concerns that the United States has about Jordan's conduct during the gulf war.

King Hussein and Queen Noor was very hospitable and expressed their concerns about a better relationship between Jordan and the United States. I do think it is important that there be recognition by the Jordanians about the infractions during the period of the gulf war as a way of setting the stakes for improved relations between Jordan and the United States. Again, the prepared statement has more on the subject.

We traveled to Israel where we had a chance to meet with Prime Minister Rabin, Foreign Minister Peres and former Prime Minister Shamir. There is a spirit and keen interest in Israel of moving ahead with the peace process, which I think bodes very well.

Hurrying along because of the limitation of my time, we met in Egypt with President Mubarak and the Egyptian Foreign Minister and there again, I was encouraged to hear their interest in being a facilitating force in promoting the peace process.

Overall, my impressions are optimistic about the future of the peace process in the Mideast. I noticed that Damascus was a great deal more prosperous in February 1993 than it was when I had last visited in January of 1990. This is the fifth time I have had an opportunity to visit Damascus and to hear the views of Syrian officials, Foreign Minister Shara, specifically, which were much more cordial and hospitable in 1993 than they were during my first trip there in August of 1984.

Cairo seems prosperous. Jordan seems prosperous, as does Jerusalem. So I think the prospects for an advance in the peace process are excellent.

I had an opportunity to give some impressions to President Clinton, who phoned me when I was in Damascus, and I returned the call from Jerusalem to give him an update as to what we have observed. Upon the return to the United States on February 16, I had a brief telephone conversation with Secretary of State, Warren Christopher.

Mr. President, it is now 11 o'clock. I see other colleagues on the floor. I know we are going to move ahead with the Legislative Calendar.

Mr. President, the increasingly depressive tragedy unfolding in the former Yugoslavia and the stagnated peace negotiations involving four Middle East countries prompted two of my distinguished colleagues and me to visit these regions between February 5 and 14, 1993. The principal purpose of our visit was to evaluate these situations in light of the potentially greater role the United States may play.

I was fortunate to travel with Senator JAMES JEFFORDS and Senator HANK BROWN, both of whom serve on the Foreign Relations Committee. While I do not speak for them here today, this body should find their thoughtful insights and assessments to be most valuable to a clearer understanding of the situations in these very important regions of the world.

Our stop in Zagreb, Croatia would have been totally depressive were it not for the outstanding role being performed by the United States Army's 212th Mobile Army Surgical Hospital [MASH] which is stationed in the Zagreb Airport. The 212th MASH's mission is to provide emergency medical and dental care to some of the 21,000 U.N. protection forces in the region.

In Zagreb, there is a poster on the wall of the International Rescue Committee which graphically summarized the situation. In one photo is an emaciated victim of a Nazi concentration camp captioned: "Never Forget, 1942." Juxtaposed is another photo of an emaciated victim of a Serbian concentration camp victim captioned: "Never Forget, 1992."

We met with Croatian President Franjo Tudjman. He is clear on his goals: to regain one-fourth of Croatian territory currently occupied by the Serbs; to return the 400,000 refugees who have been forced into Croatia; and to reintegrate all occupied territories and the 200,000 Croatians who have been cut off. He stated his hope that the U.N. protection forces will be extended beyond their March 1993 termination date. He endorses the Vance-Owens plan to settle the conflict.

A number of options were suggested to us beyond the Vance-Owens plan to force an end to this modern tragedy. They included severing diplomatic relations with the Serbian capital in Belgrade, taking some visible embargo action to demonstrate the deep concern for the current policies, increasing the level of diplomatic pressure, sending 2,000 to 3,000 United States troops to assist the French and British troops operating under the U.N. flag, enforce the no-fly zones and create a war crimes tribunal.

While I remain opposed to the entry of U.S. troops into this war, I believe that more can and should be done to end this modern tragedy and suffering. In particular, I strongly endorse the need for a war crimes tribunal. I have long advocated the need for an international criminal court to try violators of international conventions such as the Geneva Convention. The United Nations is currently moving in the direction of creating such a court and I

urge my colleagues to support such a measure. An even greater tragedy of this war would be to allow those who established the policy of ethnic cleansing as well as those who executed them to go unpunished.

MIDDLE EAST

With the bilateral peace negotiations between Syria, Jordan, the Palestinians, and Israel at a standstill awaiting a leadership role by the Clinton administration, we visited Syria, Jordan, and Israel and Egypt to assess the attitudes and roles of the countries directly involved in the talks and Egypt which has been playing an important mediating role between the Arab participants and Israel.

In contrast to the desperate state of affair we found in the former Yugoslavia, the situation in the Middle East offered hope in spite of the many obstacles to be surmounted. All Arab countries cited the Israeli decision to deport some 400 Palestinian Hamas as a major obstacle. But none urged that the peace process disband, nor did they indicate that the deportation issue could not be overcome.

In Syria, Foreign Minister Farouk Al-Shara raised the deportee issue, but not before stating that the situation in the Middle East is far different now than it was when I last visited in January 1990. Syria's principal sponsor—the former Soviet Union—is gone and there is only one remaining superpower, the United States. Mr. Al-Shara stated explicitly that Syria does not regard the deportee issue as being linked to a resumption of the peace talks.

As a result of its role in Desert Storm, Syria received substantial payments from the Gulf Arab nations. Some of those funds are going to economic development in Damascus, a fact which is quite apparent to me after a 3-year hiatus.

Unfortunately, a major portion of those funds have been earmarked for military spending on conventional and unconventional weapons including chemical warfare warheads on Scud missiles. Some in the State Department have argued that Syria is no longer seeking strategic parity with Israel. There are equally convincing arguments that Syria has not stopped trying in spite of its loss of support by the former Soviet Union. The key to the problem rests with the peace negotiations.

Three years ago, Syria was adamantly opposed to any bilateral negotiations. President Hafiz al-Asad favored only an international peace conference. The very fact that Syria is participating directly with Israel in peace discussions is a clear indication of how far Syria has come in recognizing the importance of bilateral negotiations.

Syria wants the Golan Heights back and is willing, according to Foreign Minister Shara, to allow a U.N. force to occupy this territory. When I pressed the Foreign Minister for the details of what Syria would provide Israel in terms of security, he was vague. In return, the Israelis are vague in spelling out what concessions, if any, they are willing to make. The situation is one which can only be resolved through more thorough bilateral peace negotiations.

We also raised several other issues affecting United States and Syrian bilateral relations including arms control, human rights, and Syria's support to terrorist groups.

On arms control, Foreign Minister Shara once again stated the linkage of all weapons of mass destruction to a comprehensive regional arms control treaty. He noted that unless Israel's nuclear capability is included in arms reduction or elimination treaties, the Arab countries cannot and will not reduce their missile and chemical warfare capability.

On the human rights issue, Syria appears to have made some progress with the reported release of some political prisoners and the lifting of travel restrictions on some Syrian Jews. In the short time we were in Syria, it was hard to assess just how much progress had been made.

In Damascus and in Aleppo, we visited Jewish synagogues and met with two rabbis. In Damascus, we met with Rabbi Abraham Hamra of the Ifranje Synagogue. Rabbi Hamra advised that there has been religious freedom in Syria, but that the migration of Syrian Jews was restricted until he, Rabbi Hamra, and other Jewish leaders met with president Asad on April 13, 1992. According to Rabbi Hamra, at the beginning of 1992, there were approximately 3,800 Jews in Syria with somewhat over 3,000 in Damascus, approximately 550 to 600 in Aleppo and approximately 150 in Quamishli. At the present time, according to Rabbi Hamra, there are approximately 1,200 to 1,450 Jews in Damascus, approximately 150 in Aleppo and approximately 100 in Quamishli. According to Rabbi Hamra, there has been a decisive slowdown on travel by Syrian Jews with at least 300 to 400 who wish to leave Syria being restrained from doing so.

In Aleppo, we visited the synagogue of Mrad Sardar and attended late Saturday afternoon services. After the service was concluded, many young boys in ages ranging from 9 to 13 stepped forward to sing solos on the Hebrew prayers. It was obvious from their singing in the service that Jews in Aleppo have been allowed to conduct their studies and services.

In Jordan, we met with King Hussein and Queen Noor, Prime Minister Shakir, Foreign Minister Jabir, Finance Minister Jardenah, and the Chief of the Jordanian Bilateral Peace Negotiations, Dr. Majali. The focus was primarily on the peace negotiations and with Jordan's role in supporting Iraq both during and after the gulf war.

I found the same desire to continue the bilateral peace talks as I did in Syria. The Jordanians also cited the same impediment as the Syrians; namely, the deportation of 400 Palestinians.

Our discussion with the Prime Minister and the Foreign Minister over Jordan's role in assisting Iraq during and after the gulf war in violation of the United Nations trade sanctions was somewhat heated. When these officials denied this emphatically, I gave them a copy of the Congressional Research Service report dated March 4, 1991, which specified Jordan's infractions. After lunch with King Hussein and Queen Noor, I called the King aside to tell him of the remaining congressional concerns over Jordan's conduct during the gulf war.

In Israel, meetings were arranged with former Israeli officials such as former Prime Minister Shamir and former Defense Minister Moshe Arens. We also met with Deputy Foreign Minister Yossi Beilin, Foreign Minister Shimon Peres, and Prime Minister Yitzhak Rabin. Several of our delegation also met with members of Israel's bilateral negotiators and with Jerusalem's legendary mayor, Teddy Kollek, who had just announced his intent to run again. We also met with two members of the Palestinian delegation to the Israeli-Palestinian bilateral peace negotiations.

The Israelis recognize the progress made to date by the establishment of a framework for bilateral negotiations. However, they remain concerned by the Arab linkage of all the bilaterals before a final settlement can be achieved. Deputy Foreign Minister Beilin reiterated that Prime Minister Rabin is committed to the idea of returning the Golan Heights to Syria if agreement can be reached with the Syrians on security with Israel. The issue of returning the Golan was raised by the Labor Party in its party caucus in November 1991 and it was included in the party platform. However, he candidly stated that the real debate in Israel on the Golan Heights has not started because Syria has not indicated what it will provide in return in terms of security and peace. Does it include, for example, a normalization of relations and an exchange of ambassadors?

Mr. Beilin also stated Labor's willingness to return the West Bank and Gaza immediately through negotiations. He added that unlike the Likud Party, which offered only local elections to the Palestinians, the Labor government is offering the Palestinians general elections in the West Bank and Gaza to decide on a council for a 5-year interim rule. After 3 years, there would be negotiations on full elections and Government after the 5-year point.

In regard to the deportees, Mr. Beilin stated that each case is being reviewed individually and that there is discussion on when and how to return the deportees. The deportations came as a result of public pressure to react to the killings of Israeli police. There was a unanimous vote in the Government council, not the Knesset, to deport.

Foreign Minister Peres stated a readiness for peace as soon as possible, a readiness to pay the price for peace; that is, land and a recognition that peace cannot be achieved without some compromise. He also noted the changing atmosphere in the United States in which a new generation has assumed leadership and must focus on internal economic problems. Israel must also survive economically in the face of Moslem fanaticism in the form of growing Fundamentalism.

In regard to the deportees, Mr. Peres believes that most countries to the bilateral negotiations and the Egyptians feel that the Israeli solution is reasonable. He urged the Palestinians to accept the offer of general elections as soon as possible. In regard to Syria, he believes that Syria has given up on its effort to achieve strategic parity with Israel, but has not prepared its public for the prospect of peace with Israel. The problem on the growing threat of fundamentalism results from poverty and population. In Mr. Peres' view, Israel cannot perceive itself as an island in a sea of poverty. It needs to help other nations fight the desert with fertility. He suggested that the capital for assistance can come from some of the nations involved in the multilateral discussion such as Japan.

Our meeting with Prime Minister Rabin reinforced some of the same discussions we heard previously including a willingness of the Labor Party to apply U.N. Security Council Resolutions 224 and 338 in a trade of land for peace. In return he believes that withdrawal from these territories must be accompanied by open borders, diplomatic relations, and a normalization of relations. While there has been a change of attitude on the part of Israelis, he noted that there have been similar attitudinal changes, especially by the Syrians. He believes that Jordan wants peace, but cannot conclude one until the Palestinian issue is resolved.

Israel has changed its priorities on settlements. There are no new settlements being built and no government grants to build in the territories. In addition, Israel is offering free general elections in the territories for the Palestinians. Mr. Rabin stated that the Palestinians are still unwilling to accept a 5-year interim period even though they have not the infrastructure to govern. All of this, he stated has been done at great political risk, but it is essential if a lasting peace is to be achieved.

Prime Minister Rabin went on to note the other changes and problems in Israel including the removal of the ban on contact with the PLO, the problem of integrating 400,000 immigrants, and the conversion from a military economy to one of internal economic development. He also indicated that Israel has not used the United States Government loan guarantees and when used, they will be done in accordance with agreements with the United States.

Our meetings with the Palestinian bilateral negotiators echoed all of the concerns raised by our previous meetings. For the first time, they have candidly admitted that the PLO is calling the shots on the peace negotiations.

While Egypt is not a direct participant in the bilateral negotiations, it has been playing a vital role in facilitating these talks. We met with Foreign Minister Moussa and President Mubarek, both of whom reaffirmed the necessity for continuing the bilateral dialog and the commitment of Egypt to assist in their resolution. In President Mubarek's words, there is no other solution. He also raised concerns about the Iranians and their attempt to stop the peace negotiations.

On the situation in Bosnia-Herzegovina, President Mubarek also felt that the United States cannot be expected to serve as the policeman for every situation arising in the world. He urged the Europeans to take on a greater responsibility for their own region.

Our visits to these two regions were both revealing and instructive. The resolution of these regional conflicts may well determine how other regional ethnic and religious conflicts may be prevented or resolved.

ORDER OF PROCEDURE

Mr. DURENBERGER. Mr. President, I ask unanimous consent that I might proceed as if in morning business for 1 minute.

The PRESIDING OFFICER (Mr. KERREY). Without objection, it is so ordered.

THE HONORABLE BRIAN MULRONEY

Mr. DURENBERGER. Mr. President, I rise today to commemorate the announcement yesterday of the pending departure from the international scene of a true friend of the United States. The Honorable Brian Mulroney announced that he intends to resign as Prime Minister of Canada.

I am proud to have known and worked with Prime Minister Mulroney throughout his 8½-year term of office. In the State of Minnesota, we consider him a good neighbor—open and responsive to the concerns of the people of our State.

He was a leader on acid rain and the issues surrounding the U.S. Clean Air Act. He was a powerful force for free trade—opening up Canada to a terrific trade partnership in the United States-Canada Free-Trade Agreement.

He was a reliable ally to the United States as we endeavored—together—to build a peaceful and prosperous world out of the ashes of the cold war.

I ask my colleagues to join me in wishing this international statesman well upon his retirement—and expressing our country's gratitude for his long years of friendship. And to his family our special affection, to them and their commitment to public service.

Mr. President, I yield the floor.

Mr. CAMPBELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. CAMPBELL. I thank the Chair.

(The remarks of Mr. CAMPBELL pertaining to the introduction of S. 441 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. DOLE. Mr. President, is leader time reserved?

The PRESIDING OFFICER. Leader time is reserved.

THE PRESIDENT'S ECONOMIC PACKAGE

Mr. DOLE. Mr. President, I do want to hold up consideration of the funding resolution. But I do want to take a minute or two to talk about the President's economic package and to point out a few facts that I think would be important for those who are following the budget package.

First of all section 300 of the Congressional Budget Act requires that the President submit his budget to Congress on the first Monday in February. This new deadline was set in the Budget Enforcement Act of 1990, and President Bush made the deadline in 1991 and 1992. So far the Clinton administration has sent us a blueprint. We are still awaiting specifics.

I would just indicate that in that vein, as was pointed out by our friend, the distinguished Secretary of the Treasury, Mr. Bentsen, yesterday before the Senate Finance Committee, he said this:

> Let me say what we are doing this morning. We are coming to you with not a completed detailed package. We are coming to you before we send you the budget, to talk to you about some things where we want your input; where we want you to fill in and help us with the further detail. If you have some more cuts that you want, let us all put our fingerprints on them.

The point I would make is we have a blueprint, but we do not know what the details are. For all of the talk over the past several weeks, we have been guessing. We do not know precisely what the defense cuts are. Nobody knows. That

is $112 billion in additional spending cuts.

Now the Washington Post has been, sort of acting as an intermediary for the Clinton administration, faxing up inquiries to those on the Republican side, saying: Well where is your alternative? Do you have any specific budget cuts? Send them to the Post and we will pass them on to the White House. I guess that is what they have in mind since they are the No. 1 cheerleader in this town for the administration.

We just suggest to the Post that they ought to be asking: Where is the budget? Where are details of this package? How can Republicans respond to a package in 1 week when the Clinton administration has been out there ever since the campaign ended in November—I guess some do not think the campaign has ended—but, since the election, working on this detailed bold plan for America.

So I just suggest on behalf of the Republicans that we will be responsible as we have been in the past. And going back to 1985 again, and years after that when we were up here willing to do the tough things, make the tough choices. And in that year, only one Democrat voted with us, the late Ed Zorinsky from the State of Nebraska. And the vote was 50 to 49. We passed the toughest budget resolution that this place has seen before and since that time.

So I would just suggest that we are prepared to be players. I have always been a player. But I want to play after I see all the people on the field, all of the specifics on the field, not half of the team, or nobody knows what $12 billion streamlining Government is. What is it? An $11 billion in administrative savings? What is it?

I just suggest that there are a lot of things we can do before we can comply with the Post deadline of today so they can run a big story tomorrow morning pointing out, what are the differences?

But I would just say for starters, there is $178 billion in new spending. We can certainly cut that back by $100 billion or so. There are a lot of new taxes, $360 billion in new taxes. We could certainly cut that back.

And there are some tax breaks of some $60 billion, $70 billion, and we can certainly cut those back. That would be a good start. But right now we have a package that is about $3 in new taxes for every dollar in new spending. I wanted to indicate to the Washington Post, the intermediaries for the Clinton administration, that we are working and we will be there with a plan.

First, we want to see the budget. Now we are being told we may pass a budget resolution before we get the budget. Maybe that has been done. Maybe there is precedent for it, but we would like to see the budget before we pass the budget resolution. We would like to see the specifics, the cuts, the new taxes, what the impact is on defense, and the energy impact. We think, in fairness, we have a right to see that before the press demands of us that we come up with some whole new package, so we can start debating the Republican package.

Finally, a word of advice to the communications department at the White House. They ought to calm down, go out for a weekend, have a Diet Coke, enjoy yourself. The campaign is over. You won. Now comes the hard part: Leading America. It is a lot easier and a lot more fun to play the campaign game where every administration policy becomes a victim of some 30-second negative TV ad. This is not Super Tuesday. We are dealing with a major deficit reduction plan.

This is not the New Hampshire primary or the Iowa caucus. This is day 37 of the Clinton Presidency. If the White House continues to treat every day like another day on the campaign trail, the American people—and I think President Clinton himself—will be ill-served. It certainly does not make Republicans want to jump up and support the President, if we have somebody in the communications department saying we are doing nothing but whining or carping. That may have been good campaign talk, but we are going to be around here 3 years and 11 months, and we want to cooperate with the President. We do not want to get in a contest with his communications director.

I suggest that, as in the past, we are going to be responsible, and we are gong to have real cuts, not just in defense, not $112 billion more out of defense. We are going to try to scale back a lot of the new spending. I note that today in the Washington Post, even they are saying now the stimulus package does not do much, but it is "psychological". They had the right letter first—P—but it is P for political, not psychological.

The Bush recovery is well under way. We are making progress. We will have to revise the economic growth estimates for the last quarter of 1992. It seems that we ought to let the Bush recovery continue without adding $18 billion to the deficit. In the spirit of cooperation, I say to the President of the United States, President Clinton, that he will find Republicans being responsible. We have had 7 days. He has had about 100-some days to get ready. We still do not have his budget. I say that, in fairness, give us a little time. We are going to have some options. We agree with Secretary Bentsen and others that this has to be a total effort. We hope that when that time comes, we will have more support for our ideas then we had in 1985, when one Democrat voted for the Republican package.

So we hope we can do better than that. We think the people want more jobs, and they want the deficit reduced. They want us to speak out. They want bipartisanship. They are tired of gridlock, and we want to be helpful where we can. But, that does not mean you are not patriotic if you do not sign onto $360 billion in new taxes. If that is patriotism, it is a brand new definition. We may not meet the Washington Post's deadline, but we will try to be responsible on this side of the aisle. I reserve the remainder of my time.

IRRESPONSIBLE CONGRESS? HERE'S TODAY'S BOXSCORE

Mr. HELMS. Mr. President, the Federal debt—run up by the U.S. Congress—stood at $4,195,090,632,958.41 as of the close of business on Tuesday, February 23.

Anybody remotely familiar with the U.S. Constitution is bound to know that no President can spend a dime that has not first been authorized and appropriated by the Congress of the United States. Therefore, no Member of Congress, House or Senate, can pass the buck as to the responsibility for this shameful display of irresponsibility. The dead cat lies on the doorstep of the Congress of the United States.

During the past fiscal year, it cost the American taxpayers $286,022,000,000 merely to pay the interest on deficit Federal spending, approved by Congress, over and above what the Federal Government has collected in taxes and other income. Averaged out, this amounts to $5.5 billion every week, or $785 million every day, just to pay the interest on the existing Federal debt.

On a per capita basis, every man, woman, and child owes $16,332.27—thanks to the big spenders in Congress for the past half century. Paying the interest on this massive debt, averages out to be $1,127.85 per year for each man, woman, and child in America. Or, looking at it another way, for each family of four, the tab—to pay the interest alone—comes to $4,511.40 per year.

What would America's economic stability be today if there had been a Congress with the courage and the integrity to operate on a balanced budget? The arithmetic speaks for itself.

SUMMER YOUTH EMPLOYMENT PROGRAMS AND THE PROPOSED $1 BILLION IN SUPPLEMENTAL FUNDING FOR THE PROGRAM

Mrs. KASSEBAUM. Mr. President, I would like to comment on the President's request for $1 billion in supplemental appropriations for this summer's Youth Employment and Training Program administered under title II–B of the Job Training Partnership Act.

In a hearing yesterday before the Senate Committee on Labor and Human Resources, Secretary Reich spoke about the importance of the education component for disadvantaged youth in the summer jobs program. I am in complete agreement. My concern

is that this enhancement of remedial education skills has too often been given a lower priority in comparison to jobs despite the fact that the very wording of the purpose of title II–B calls for an emphasis on improving basic education skills.

To correct this confusion in priorities of jobs over remedial education, I believe we can no longer allow the education component of this program to be optional. The reality is that when disadvantaged youth are given a choice of a job over sitting in a classroom, they generally opt for the job. This can no longer be permitted.

When these programs were first funded under the JTPA in 1984, they were basically limited to providing summer jobs for youth. There was no remedial education component connected with the program. The intended purpose of the program was to provide young people, particularly in the Nation's urban areas, with a familiarization of the workplace environment. That experience, it was hoped, would serve as an incentive for them to finish their high school education and eventually attain a job skill that would lay the basis for building a productive career.

In reality, the summer youth job programs were simply a strategy for keeping kids off the street and out of trouble.

In the early 1980's, local school, systems were also becoming alarmed by the growing deficiencies in reading, writing, and math skills affecting disadvantaged youth. In 1986, in an attempt to help address these educational deficits, the Congress amended the Summer Youth Employment and Training Program under title II–B to require that local summer programs include assessment of educational deficiencies and remedial education along with work experience.

Under the amendments, the purpose of the program is to: "Enhance the basic education skills of youth; and to encourage school completion, or enrollment in supplementary or alternative school programs." Jobs are third on the list.

Unfortunately, despite increased funding targeted specifically for remedial education for these summer youth programs, participation in classroom training has only increased slightly. Participation generally is influenced by strategies of the local service delivery area since there is no requirement for youth to attend.

The problem of determining the cost-effectiveness of the education component of the title II–B program has been exacerbated by the lack of data collection by the Department of Labor regarding participation. But research of these programs at the SDA level has found a number of reasons about why youth enrolled in the title II–B program do not participate in the remedial education component:

First, there is not enough coordination with the local school system for testing and scheduling of classes.

Second, the SDA has determined that the cost of remedial training is too expensive.

Third, parents do not let their children go into certain geographical areas of inner cities where the remediation classes are being offered because of physical danger from street gangs.

Fourth, many of the youth interviewed admitted they simply did not want to sit in a classroom studying reading, writing, and math during the hot summer months when they could be outside, hanging out with their friends.

The most disturbing information reflected by research of these summer job programs is that in many cities or service delivery areas, less than 50 percent of the youth participating are taking advantage of the remedial education component.

Therefore, Mr. President, before I would support any further appropriations for the title II–B Program, I want the Secretary of Labor to issue a rule requiring service delivery area operators to make remedial training for those youth who are tested and found in need of it, mandatory, in order to participate in the jobs component of the program.

To insure greater participation in the remedial education component of the program, there should be prior consultation between the service delivery area and the local school system to ensure available classrooms. The local SDA should also try to locate the remedial classes at a site accessible for neighborhood youth or provide transportation to the site.

To those who would argue that requiring mandatory remedial education for those in need of it would be too expensive, my answer is this: What is more important for the disadvantaged youth of this Nation? A summer job or the opportunity to improve their literacy skills so that they can finish their high school education, and start building a constructive career for themselves. If we have the funds to provide both, we should do that. But if it is a choice between a job or literacy enhancement, I feel very strongly that it should be the latter.

I think that Secretary Reich would agree that we can no longer leave the choice of a job or literacy skills enhancement up to the youth. I believe we must make the remedial education component of this program mandatory if we are to begin to stem the tide of sinking literacy levels within the Nation's urban areas.

I would also like to see a more detailed breakdown of how much of the $1 billion appropriation for this summer and for next summer will be spent on remediation as opposed to workplace familiarization under title II–B.

QUESTIONS TO SECRETARY BENTSEN

Mr. DOLE. Mr. President, yesterday the Senate Finance Committee held its first hearing on the President's economic plan. It was good to see former chairman Lloyd Bentsen back at the committee.

Because I had a previous commitment to join majority leader MITCHELL in hosting Prime Minister John Major's visit to Capitol Hill, I was unable to hear the Secretary's entire remarks. However, as I explained in my opening remarks, I wanted to follow up with a few questions pertaining to the administration's economic plan.

Many of the questions are based on inquiries I have received from constituents. I sent the questions to the Secretary this morning and ask unanimous consent that my questions be printed in the RECORD. I look forward to the Secretary's response.

There being no objection, the questions were ordered to be printed in the RECORD, as follows:

SENATOR BOB DOLE'S QUESTIONS TO SECRETARY BENTSEN

(Hearing on the President's economic plan, Wednesday, February 24, 1993)

TAX INCREASES

The administration has proposed a new rate structure for individuals. The proposal will increase the top individual rate to 39.6 percent.

1. Under the proposal, what will the top rate be factoring in the repeal of the health insurance wage base cap and pep and pease?

2. What will the new rate structure be for a family of 4—with the factors listed above.

3. With higher tax rates, is there a potential for a significant marriage penalty?

4. With higher tax rates, will we be encouraging tax shelters designed to convert ordinary income into capital gains?

DEPARTMENT OF TREASURY DISTRIBUTION TABLE

The administration's distribution table uses "family economic income class" as its basis.

1. What is included in "economic income" that is not included in adjusted gross income?

SMALL BUSINESS

Small businesses create roughly 60 percent of all new jobs in this country. Most small businesses file tax returns as individuals.

1. How much revenue do you expect to raise with the new 36 percent tax bracket and how much do you expect to come from small business?

2. How much of the surtax revenue will come from small business?

3. How many small businesses, many of whom file as individuals, will have their income taxes increased by the new rates and surtax?

4. Will the administration consider surtax exemptions for business income "allocated" to taxpayers from pass-through entities (partnerships and subchapter S corporations)?

5. How many small businesses will likely benefit from the so-called incentive package?

6. Have you made an attempt to estimate the number of jobs that will be lost given the proposed increase in taxes, particularly on small business?

7. Small businesses are labor intensive and the most critical tax they pay is their payroll tax. What does this administration plan to do to help alleviate this burden?

8. Estate tax rules often force sale of a small family business or farm when the owner dies unless he or she has expensive life insurance coverage. Continuity of small farms and businesses is an important issue to small business owners. Can this administration support exempting from estate taxes a transfer of a family-owned business if the business is continued by a family member?

9. Most small business owners cannot deduct the cost of their health insurance. The president's proposal would only allow them a 25% deduction which would expire the end of this year. Why can't we level the playing field between corporate and non-corporate businesses and allow a full deduction for health insurance premiums?

10. The alternative minimum tax [AMT] was designed to make large companies, with billions in profits, pay some taxes. Now all companies, even small ones, can be subjected to an AMT. Can we simply exempt small businesses under $5 million in gross sales from worrying about the AMT trap?

11. What can be done to relieve small business from the increasing costs of complying with IRS rules and the consequent extensive paperwork burden?

ENERGY TAX

The administration has proposed a modified Btu tax.

1. Much of the justification of the new energy tax appears to be to improve the environment. How does imposing a tax on clean domestic fuels like natural gas, hydroelectric, and nuclear power improve the environment?

2. How does taxing domestically produced natural gas, oil, and other energy improve our energy security? How does it support our domestic energy industry?

3A. Exactly what forms of energy will be taxed? Will it apply to ethanol produced from renewable feedstocks and used in transportation fuel?

B. Will it apply to methanol produced from domestic natural gas as well as the natural gas feedstock? (If yes on feedstock, what about imported methanol, the feedstock of which could not be taxed?)

C. What about other types of double taxation—oil, natural gas and/or electricity used in the production of additional oil and natural gas?

D. What about coal taxed at the minemouth and electricity produced from this coal?

E. Please provide us with information of where the tax will be collected for each fuel source, and how any exemptions will work.

4. Has the administration analyzed how this tax would affect the competitiveness of energy-intensive U.S. industries like steel, aluminum, and automobile manufacturing? (If so, please provide this analysis. If not, when do you expect to complete such an analysis?)

5. What impact would this tax have on inflation?

6. Who would collect, administer, and enforce this tax? What are the estimated costs of imposing and collecting this tax? Please provide estimates of both FTEs required and dollars.

7A. Proponents of past Btu tax proposals have argued that this type of tax does not distort fuel choices in the marketplace. But, this tax does introduce such distortion with the surcharge on oil. Doesn't this defeat one of the principle arguments favoring the BTU tax over other types of energy taxes?

B. Has the treasury or DOE conducted any analysis of fuel switching triggered by this tax? What about the increased cost of the fuel due to the increased demand? Has any analysis been done on job loss or creation due to this phenomenon?

8. Statements from administration officials which I have read in the press stress the supposedly small impact of such a tax on direct household and business spending on energy. But doesn't the tax also raise the cost of all goods and services produced in the United States? Has any analysis been done on the true cost of this tax to American families?

9. Articles in several newspapers raise the possibility that the Department has underestimated the true extent of the tax. As a matter of fact, one analysis, seemingly supported by former Energy Secretary Jim Schlesinger, suggests taxes on the average American family of four individuals might be raised by $500 per year—just by the energy tax. How certain are you of the estimates used by Treasury?

10. Do you assume this tax will be passed through entirely to consumers? What is the basis for this assumption? Has anyone analyzed the extent which contracts may disallow the pass through of these costs?

11. Please provide us with a State-by-State analysis of the costs of this tax. In other words, please provide the amounts that you estimate the energy producers, transporters, refineis, or consumers in each State would pay each year.

12. When will heating oil be taxed and at what rate?

ENERGY TAX/AGRICULTURE

On February 19, 1993 OMB Director Leon Panetta briefed a group of individuals from the agribusiness sector but was unable to say whether or not ethanol production would be exempt from the proposed Btu tax.

1. Will ethanol production be exempt from the Btu tax?

The American Farm Bureau Federation has estimated that the Btu tax on a typical 430-acre Midwest grain farm could cost $800 per year in higher direct fuel costs. This figure could double if the tax applies to pesticides, fertilizer, and other items that require energy to manufacture. While there has been some discussion of an exemption for "non-fuel uses" it is not clear whether it would apply to agricultural chemicals and fertilizers.

1. Will the production of pesticides and fertilizers be exempt from the Btu tax?

American agricultural exports are running more than $40 billion annually, yielding an agricultural trade surplus of more than $20 billion a year.

1. Has the administration calculated whether or not the additional Btu tax on farmers will make us less competitive in foreign markets, reducing our exports and lowering that trade surplus?

2. Would the administration consider a rebate for agriculture or other export industries negatively affected by the Btu tax?

The Btu tax is likely to increase inflation during the phase-in period.

1. Have you estimated the impact on spending programs that are indexed to inflation rate changes?

2. Is this spending impact included in the administration's budget proposal?

USDA ENTITLEMENT SPENDING

Much has been made of the proposed cuts in farm program benefits in the Clinton budget. While there are proposed cuts most would not occur until the 1996 crop year despite the fact that the 1990 farm bill authorizes farm programs only through 1995. At the same time, the President proposes to increase spending in USDA's food stamp program by beginning with $1.0 billion in fiscal year 1993 and $9.0 billion over fiscal years 1994–97. As a result, the Clinton budget actually proposes an expansion in USDA entitlement programs of over $4 billion during fiscal years 1994–97.

1. Is such a large expansion in the Food Stamp Program justified to protect low-income people from the impact of the Btu Tax?

INVESTMENT TAX CREDIT PROPOSAL

As I understand it, the proposed investment tax credit is temporary, for those not designated a small business, and incremental. I also understand that there may be restrictions for leased property—as you may know, over 50 percent of commercial aircraft is leased for use in general aviation.

1. Is this a meaningful stimulus? How can a temporary, incremental credit of this nature have any real impact?

2. Will the leased property restrictions discriminate against a business that can't get credit to buy equipment and are instead forced to lease it?

INTERNATIONAL

The provisions affecting international businesses raise approximately $8 billion.

1. What industries are most affected by these provisions? and what effect do these measures have on those industries?

2. What portion of this revenue is attributable to our U.S. businesses operating overseas? And what portion is attributable to foreign operations in the United States.

DENYING DEDUCTION FOR LOBBYING EXPENSES

The President has proposed to disallow the deduction for lobbying expenses.

1. How does the administration define lobbying? Will this apply to U.S. congressional members? Staff? The executive branch?

2. Will it apply to every level of government? State and local authorities as well?

3. Will it apply only to outside consultants? To corporate employees? To labor unions?

4. How will the rule apply to trade association dues and union dues?

REAL ESTATE: MORTGAGE INTEREST DEDUCTION

Prior to the President's address to Congress, many news reports noted that the administration was contemplating further mortgage interest reductions for homes over $300,000.

1. Is the administration still considering this proposal?

2. Is the proposal being considered as a part of the forthcoming health care proposal?

ALCOHOL BEVERAGE FEDERAL EXCISE TAX

The alcohol beverage Federal excise taxes were significantly increased as a part of the 1990 budget deal. Estimates show that the increase resulted in the loss of thousands of jobs.

1. Assuming that the excise taxes will be increased, will you assess the additional loss of jobs?

2. Will the regressivity of these type of taxes be taken into account?

BUSINESS MEAL DEDUCTIBILITY

In 1986, Congress reduced the deduction for business meals to 80 percent on the theory that the "personal consumption" element should not be subsidized by the government.

1. What is the administration's rational for further reduction?

2. Has the administration considered the impact on jobs resulting from reduced spend-

ing in restaurants, hotels, convention centers, theaters and sports arenas?

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is now closed.

AUTHORIZING BIENNIAL EXPENDITURES BY COMMITTEES OF THE SENATE

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of Senate Resolution 71, which the clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 71) authorizing biennial expenditures by committees of the Senate.

The Senate resumed consideration of the resolution.

Mr. FORD. Mr. President, it is awfully nice to come out on the floor and say how much you want to support the President and how hard you are going to work to make things look better. We have been hearing that for 12 years. I guess we will have to look at smoke and mirrors a little bit longer.

In order to try to accommodate two of my colleagues, I ask unanimous consent that the distinguished Senator from Oregon [Mr. PACKWOOD], have 6 minutes, and that the distinguished Senator from North Dakota [Mr. DORGAN], have 4 minutes as in morning business; and that at the end of that period of time, we return to Senate Resolution 71.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Oregon is recognized.

Mr. PACKWOOD. I thank the Chair.

(The remarks of Mr. PACKWOOD pertaining to the introduction of legislation are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

CHANGING THE COUNTRY'S ECONOMIC DIRECTION

Mr. DORGAN. Mr. President, I thank the Senator from Kentucky for the time this morning. I want to comment for a few moments this morning on the President's proposal to change the economic direction of this country.

There was a verse I learned some years ago, whose author I do not recall, that went something like this: Bull fight critics row by row crowd the vast arena full, but there is only one man there who knows, and he is the one who fights the bulls.

President Clinton has decided in a real way to fight the bulls. This vast arena is full of critics, and I understand all that. But the question for this country, it seems to me, is this: Are we going to keep doing what we have been doing, or are we going to change?

President Clinton has proposed fundamental economic change in the direction of this country. Do I think his proposal is perfect? No. Do I think there should be some changes and adjustments here and there in the proposal? Yes. But do I think this is the right kind of proposal for right now to fix what is wrong in this country? You bet I do.

If we keep doing what we have been doing for the past decade, spending money we do not have, often on things we do not need, charging it to the kids, we will only run up an enormous debt. If we do not invest in the things we need to for the future and if we continue to fall behind in international competition, we are not going to advance this country; we are not going to provide opportunity for our children and economic growth for America.

President Clinton has proposed a plan that is an honest plan. As I said, there are things I would like to see changed in it with respect to rural America. There are a number of things that I have suggested to the White House that could be adjusted, but I want to state my support for the plan.

It is the first honest plan we have seen for a good long while. It proposes real cuts in Federal spending. It asks for real tax increases, and nobody likes that.

In fact, while we are talking about that, Mr. President, just mark me down as someone who supports zero taxes. My preference is I would like nobody to have to be asked to pay any taxes. That would be a nice thing. If no one had to pay any taxes in this country, I would like that. But the fact is it is not workable. We have certain things we expect the Government to do for us. We have certain programs we want together as Americans. The list of requirements is a long list, and we must pay for them.

So the question is: What do we want to spend and what are we willing to pay for it? President Clinton for the first time in a decade has honestly said: "Let us cut off what we now spend and let us increase some of the taxes."

You can take a look at the last decade, and as friends of mine on the other side of the aisle have said: Well, this is really going to hit some people pretty hard. For example, those with over $200,000 a year in income during the last decade had about a 120-percent increase in their income and only half that growth in their tax burden. What that means is they are getting richer and paying less in taxes proportionally than the rest of the American people.

Should we increase the taxes on those people? Of course we should. The point I make is none of us like taxes, and none of us minimize the burden of someone who is going to have to pay more. There are some areas where it is appropriate, and President Clinton has been honest about that.

He also has said: "Let us propose real spending cuts." He said: "Let us have a real tax increase and reduce the deficit with a combination of both.

And he also said something else which is most important: "Let us make real investment in this country for growth " There is a difference again between spending and investing. There are differences in our families, there is a difference in our business and there is a difference in Government when you invest rather than spend. That is what President Clinton has proposed for this country.

We do not have the luxury, Mr. President, in deciding not to do anything. There will be those critics that crowd this vast arena who do not want to do anything or oppose everything. We do not have the luxury. If this country is going to compete and move ahead and grow and provide opportunity again, then we must do one thing at least, and that is reduce this Federal deficit.

We must unburden ourselves of massive debt. The Ship of State cannot move forward with the cargo hold full of debt. We have to unburden, and the way to do that is to cut spending and raise some taxes.

At the same time, the second thing we must do, as President Clinton has appropriately suggested, is to invest in our future. Investing in kids, investing in education, investing in technology; all of those things move this country ahead.

Mr. President, when I went to the House of Representatives 12 years ago, almost 13 years ago now, the oldest Member of the House of Representatives was Claude Pepper. Soon after I began serving, I went to Claude Pepper's office for the first time. I have never forgotten what I saw in Claude Pepper's office. On his wall behind his chair he had two pictures. One picture was of Orville and Wilbur Wright making that historic first airplane flight, and it was autographed, "To my good friend, Claude Pepper, from Orville Wright." Beneath it was a picture of Neil Armstrong stepping on the Moon, similarly autographed to Congressman Pepper.

It occurred to me, here was a living American who had an autographed picture of the first person to leave the Earth and take flight, and the first person to step on the Moon. And what does that distance mean in the distance between the first day that we flew and the day we landed on the Moon? It means there was an incredible, unprecedented, historic burst in technology, learning, and progress in dozens of areas. How did it happen? Investment. Investment in education, investment in our kids, investment to move this country forward.

I am here today to say I compliment this President and I support the President, and I think the Congress can do not less than to help this President advance a program of economic change, that will fundamentally change the direction of this country. Will I try to make some adjustments? Yes, sure; because I do not think it is perfect. But I do not want the press in this country to misread comments by any Member of this body or any legislative body, which say I would like to make this little change or that little change, as comments representing opposition to the President's plan. Virtually every one in here probably has an idea how you might do it just a little better. Some of those adjustments can and will be made. This plan, however, ought to be a plan that we meet. We ought to meet the spending cut target. We ought to meet the tax increase target. We ought to meet the investment targets.

Mr. President, if you will indulge me for 1 more minute, I would like to make one other point about President Clinton. President Clinton has understood that you do not ask people to suffer the spending cuts or the tax increases unless you clean up the act in Government. And he has proposed significant cuts in Government waste. In addition to some program spending cuts, he has proposed getting to the root of waste in Government. He has proposed cuts in overhead, cuts in the executive branch, a real war on Government waste, and it is about time.

For 18 months in the U.S. House, I chaired a task force on Government waste. And we produced this booklet which President Clinton referred to during the campaign last fall.

A number of provisions in this booklet are now part of the President's proposed policies on cutting spending. We do not need to spend all the money we are now spending. We have 1.2 million bottles of nasal spray on inventory at the Department of Defense. Does anybody think there are that many plugged noses in the next century to want 1.2 million bottles of nasal spray on inventory? Of course not. That is just the tip of the iceberg. I could spend an hour citing chapter and verse on ridiculous areas of Government spending, and we ought to cut them. And President Clinton is leading the way.

When people say there are not budget cuts here, nonsense. There are real budget cuts in programs and a real war on waste to try to trim back the cost of Government.

Mr. President, there will be enormous discussion and debate that goes for months on these proposals by the President. But let me say that I am tired of 12 years of supply-side economics and trickle-down economics, when we said we can simply make the rich richer and all will be better off, if we simply cut taxes and double defense, while we still balanced the budget. After 12 years of that experience, it is finally refreshing to see a proposal that does fundamentally change economic policy, one that I think will move this country in the right direction.

Finally, let me say this cannot be done by Democrats alone, as the minority leader indicated a few minutes ago. We will achieve change in this country, real change that fixes what is wrong in this country, when we decide to stop bickering and decide to join hands and move forward together. Everyone should want investment in the future. Everyone should want to cut unneeded spending. Everyone should want to embrace a program that we think is an opportunity to fix what is wrong in this country.

I look forward to this debate with relish. This is why I came here. This is what the Senate ought to be about.

I yield back the remainder of my time, and I thank very much the Senator from Kentucky.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. PRYOR. Mr. President, I ask unanimous consent that I may speak as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRYOR. Mr. President, I thank the Chair for recognizing me. I also thank the distinguished manager of the bill, the distinguished Senator from Kentucky, for allowing me to speak here for just a few moments about a new organization in America.

EMPOWER AMERICA

Mr. PRYOR. Mr. President, I would like, if I might, to tell you and my colleagues about this new organization. The name of this new organization is Empower America, a group of individuals dedicated to recapturing the White House.

Today at 10 a.m., Empower America held a press conference to announce the creation of a coalition designed to defeat President Clinton's economic plan.

Mr. President, who was one of the main speakers this morning at that press conference? Who is fighting our President's attempt to finally get the Federal budget under control, and the President's attempt to stimulate the economy? The main speaker at the press conference this morning was none other than Jack Kemp, the former Secretary of the Department of Housing and Urban Development.

Mr. President, this is the same Jack Kemp who, right before he left HUD, a few hours before departing from the office, Mr. Kemp as Secretary of the Department of Housing and Urban Development gave out $400,000 in bonuses.

Almost $100,000 of these bonuses went to some 70 political appointees. A review of the people who received these bonuses right before the inauguration reveals some interesting facts.

For example, one of the recipients who received a nice bonus, $1,300, was a person named Cheryl Weber. Who is Cheryl Weber? Cheryl Weber is the wife of Vin Weber, a former Congressman from Minnesota. Interestingly enough, Vin Weber is now a codirector of Empower America.

A fellow named Kevin Stack also received a $1,300 bonus a few hours before he left office. Interestingly enough, the press release from Empower America that announced today's press conference was issued by a fellow named Kevin Stack.

Mr. President, do you suppose it could be the same Kevin Stack that received that bonus? I checked, and it is.

Mr. President, it is obvious that Jack Kemp and the people at Empower America do not like President Clinton's economic plan. But before anyone might think about jumping over to their side of this argument, hopefully, they will look at the examples that the people who organized Empower America have set. Apparently, Jack Kemp's idea of an economic stimulus is to give salary bonuses to his political cronies.

The point of the current economic debate, Mr. President, is not "spending, stupid," as some of the buttons indicated Wednesday night at the President's State of the Union address. It is not about "spending, stupid," it is about stupid spending. That is what this debate is about.

President Clinton has made the tough choices—and he is making them on a day-by-day basis—to put together a plan to get this country turned around in the right direction.

Mr. Kemp, the former Secretary of Housing and Urban Development, had his chance to hold the line on Federal spending; instead, another $100,000 in taxpayer money found its way to Mr. Kemp's political friends.

Mr. President, I hope as we read about Empower America in the days and months to come, that we will remember these individuals who have put this organization together and what their priority on spending was when they had the opportunity.

Mr. President, this morning in the "Buffalo News," from Buffalo, NY, a good story was written on this particular issue. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

WASHINGTON.—Secretary Jack F. Kemp paid $92,000 in post-election bonuses to his political appointees at the Department of Housing and Urban Development, it was learned Wednesday.

Among the government bonuses that HUD said were paid between Election Day and Inauguration Day was one to the wife of Kemp's 1988 presidential campaign chairman, former Rep. Vin Weber, R-Minn., and an-

other to a former HUD official who is now an aide to Rep. Jack Quinn, R-Hamburg.

In all, 70 of Kemp's political appointees received lame-duck payments in the midst of the worsening deficit crisis. Another beneficiary is Kevin Stack who moved from HUD to a new organization headed by Kemp and Weber, called Empower America.

Stack, the group's spokesman, on Wednesday announced Kemp and Weber today will announce formation of a coalition to defeat President Clinton's economic plan.

As part of Clinton's deficit-cutting program, the president has proposed freezing compensation for all civilian federal employes for a year, and then limiting their raises to one percent less the inflation rate for the next three years.

In a statement issued through Bill Dal Col, another Empower America official, Kemp said the bonuses were part of the routine civil service annual performance review process that had been carried out through my entire tenure at HUD.

Kemp said the payments were based on evaluations made for 1992, adding that they are always paid at the end of the year.

Asked why he did not suspend the bonus payments in light of the federal deficit, Kemp responded:

To have denied a modest annual bonus to HUD employes would in my opinion have been a slap in the face to the loyal and dedicated public servants who helped me clean up the corruption and redirect all policies away from bureaucracies and back to people and helped save millions, if not billions, in taxpayer dollars in the long run.

In his statement Kemp lumped the bonuses awarded to his political appointees in with bonuses paid as part of the review process to permanent high-ranking HUD officials who are in what is called Senior Executive Service.

SES bonuses amounted to another $298,000. Among the SES officials who received these payments was Buffalo Areas HUD Manager Joseph D. Lynch. His bonus was $5,200.

Lynch has permanent SES rank, senior Clinton administration sources said, but he will be moved from Buffalo to a comparable job in another community some time after June 1.

Lynch could not be reached to comment. The Buffalo News obtained the list of Kemp's awardees through a Freedom of Information Act request to HUD.

Weber, whose wife Cheryl was on HUD's political-level payroll as a special assistant, and Stack who at HUD was assistant to the secretary (Kemp) for communications, 8 declined to respond to repeated telephone calls. Their bonuses were about $1,300 apiece.

The Quinn aide is legislative director Earl Whipple, whose bonus was $1,385. Whipple was on HUD's congressional liaison staff, and was a political appointee serving at Kemp's pleasure. Quinn's press secretary, Mike Zabel, said the bonus to Whipple was not an 11th-hour award but the result of a review of his 1992 work record by his departmental superiors. Whipple is proud of the bonus, Zabel said.

HUD referred questions about the process to its personnel director, Norman Phelps, who got a bonus of $4,720. He did not return telephone calls.

The 70 political appointees who got bonuses included 28 persons who were listed only as special assistant or staff assistant, 8 who worked in advance parties for Kemp's travels, or as confidential secretaries to top-echelon officials. Ten others worked in congressional and intergovernmental relations.

Several other political appointees worked as press aides. Kemp in 1990 successfully waged a pitched battle against efforts by Sen. Barbara Mikulski to cut Kemp's press office to the bone.

Dal Col, who was Kemp's chief of staff at HUD, acknowledged that a high percentage, perhaps a majority of Kemp's political appointees got bonuses. Dal Col said all HUD employees, including career civil servants are eligible for bonuses.

However, career HUD employees, who spoke only on condition they not be identified, said that at the beginning of Kemp's tenure in 1989, career workers were told they had been rated too highly in the past.

As a result, the sources said, many of the career workers who had been getting bonuses previously were denied them because of poor ratings by Kemp's political aids. Those who did receive the bonuses, they said, got only a fraction of the amounts received by political appointees.

The Office of Personnel Management is studying the rash of 11th-hour bonuses paid to Bush administration political appointees at the request of President Clinton. An OPM official said chances are all the bonuses allocated to Kemp's political appointees, who have left the agency in recent months, have been paid.

Bonuses awarded to SES officials still at HUD may still be in the pipeline.

The OPM aid said Kemp also nominated high-rank HUD officials for Presidential Rank bonuses toward the end of his term. The number of these proposed awardees, the total amount of money involved, and the date on which Kemp proposed these bonuses could not be immediately determined.

AUTHORIZING BIENNIAL EXPENDITURES BY COMMITTEES OF THE SENATE

The Senate continued with the consideration of the resolution.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. FORD. Mr. President, we are now on Senate Resolution 71, funding for the committees of the Senate.

It is my understanding that we have only three amendments, possibly, that are left. One I think can be accepted. The other one we just have a question mark; we do not know what that is. And I believe the third one is close to being reconciled. So I think we are very close to accomplishing the final passage of Senate Resolution 71.

But, Mr. President, let me make one point very clear: We are not leaving here today until this resolution is adopted. I have already talked to the leadership on both sides and they agree that the resolution should be adopted today. And before we leave here today, we will agree to this resolution. It may not be 3 o'clock and it may not be 4 o'clock.

But I encourage the Senators from the other side that have the three or four amendments to this piece of legislation to come forward and let us get rid of them. Otherwise, we are just going to be here and we are going to see a lot of quorum calls, and people are going to be wanting to leave, and we will not have finished the resolution.

So I encourage the Senators who have amendments to come to the floor and see if we cannot work our way through the three or four amendments that are left. I do not mind staying here, but I just think it is a waste of time if the Senators are not going to come forward and submit their amendments.

Mr. President, seeing no Senator here wishing to offer an amendment—I will give them a few minutes—I am prepared to move to third reading. That might bring some Senators to the floor if we attempt to go to third reading.

But, under the circumstances, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, I ask if it takes consent at this time that I have unanimous consent to proceed on a matter other than the pending matter for a period of up to 4 minutes.

The PRESIDING OFFICER. It would. Without objection, it is so ordered.

Mr. STEVENS. I thank the Chair.

(The remarks of Mr. STEVENS pertaining to the introduction of S. 444 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

AMENDMENT NO. 62

(Purpose: To make it the order of the Senate that no question on final passage of any measure and no question on the adoption of any amendment shall be put if it contains an unfunded Federal mandate)

Mr. MCCONNELL. Mr. President, I send an amendment to the desk on behalf of myself, Mr. GREGG, Mr. MCCAIN, Mr. BURNS, and Mr. COHEN and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Kentucky [Mr. MCCONNELL], for himself, Mr. GREGG, Mr. MCCAIN, Mr. BURNS, and Mr. COHEN, proposes an amendment numbered 62.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the resolution, add the following:

UNFUNDED FEDERAL MANDATES

SEC. . (a) It is the order of the Senate that no question on final passage of any bill, joint resolution, concurrent resolution, or resolution and no question on the adoption

of any amendment shall be put if it contains an unfunded Federal mandate that requires a State or subdivision of a State to take action that it would not take absent the mandate at a cost that would not otherwise be incurred.

(b) Subsection (a) may be waived only by the concurrence of three-fifths of the Senators duly chosen and sworn.

Mr. McCONNELL. Mr. President, increased public attention on the national debt has to some extent boxed in some of our colleagues who want new Government programs. No one wants to be tagged with creating a new tax or raising an old one. No one wants to be blamed for proposing an offset that results in an existing program cut. The alternative, increased deficit spending, is no longer politically painless. It is not yet as painful as it should be, but it is not completely painless.

That leaves Congress one out, unfunded Federal mandates. The zeal to be seen as doing something combined with the lack of political will to pay for legislative initiatives is crushing the financial back of our States.

Our States can no longer afford our legislative initiatives. We think we have financial pressures—the States actually have to balance their budgets. We are making that increasingly difficult for them to do.

The amendment I am proposing would not altogether ban unfunded mandates, though that action has some merit. The amendment would make it more difficult to dump unfunded mandates on States. It would amend the nonstatutory standing orders not embraced in the rules and resolutions affecting the business of the Senate to say that:

It is the order of the Senate that no question on final passage of any bill, joint resolution, concurrent resolution, or resolution and no question on the adoption of any amendment shall be put if it contains an unfunded Federal mandate that requires a State or subdivision of a State to take action that it would not take absent the mandate at a cost that would not otherwise be incurred.

That is lawyer talk for unfunded mandates. The provision may be waived only by concurrence with three-fifths of the Senators duly chosen and sworn.

Mr. President, the result would be that we could not be so cavalier in passing bills that make us look good but stick States with a tab. Our unfunded mandates have been making Governors and State legislatures do the hard work of prioritizing, cutting programs or raising taxes. As President Clinton calls upon Americans to sacrifice and Congress prepares to raise taxes, we must no longer shirk fiscal responsibility by dumping unfunded Federal mandates on the States.

Mr. President, I have a letter from a variety of different organizations supporting this amendment which I would like to make reference to dated February 25:

DEAR SENATOR MCCONNELL: The groups listed below would like to thank you for introducing the mandate relief amendment. State and local officials and the education community have long decried the problem of unfunded Federal mandates. Over the years, States and local governments have seen authority over their budgets decline as more resources are devoted to Federal priorities. Similarly, educational institutions have seen their appropriations fall as States shift their fiscal resources to address Federal requirements. We encourage you to work for the passage of mandate relief legislation. If we can be of service in any way, please do not hesitate to contact us.

Mr. President, that is signed by the following organizations: The Association of Community College Trustees; the American Association of Community Colleges; the American Association of State Colleges and Universities; the Government Finance Officers Association; the Illinois General Assembly; the Midwestern Universities Alliance; the National Association of Counties; the National Association of State Auditors, Comptrollers and Treasurers; the National Association of State Treasurers; the National Association of State Universities and Land Grant Colleges; the National Conference of State Legislatures; the National Governors Association; the New York Legislature; the Office of Governor Wilson; and the Western Governors Association.

Suffice it to say, Mr. President, there is considerable sentiment out in the country that we ought to simply not do this anymore, not pass these unfunded mandates. But that is not what my amendment suggests. My amendment simply says that if we are going to do that, we ought to at least achieve a three-fifths vote.

On that observation, Mr. President, I yield the floor.

Mr. GREGG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, I rise in support of the proposal of the Senator from Kentucky. I think it is long overdue and very appropriate for this Senate to consider at this time the matter of a rules amendment. There is probably nothing that is more of a scourge to the States, counties, and cities in their process of developing their budgets than the unfunded mandates which come from the Federal Government. Those mandates pervert the purpose in the budgeting authority of the States, counties, and cities causing them to make decisions which they would not otherwise make and forcing them to expend resources in a manner which they might not choose if they had the opportunity.

It is certainly the right of the U.S. Senate and the House of Representatives and the Federal Government, obviously, to decide on policies which impact the States, impact the counties and impact the cities. But when those policies force those levels of government—the States, the counties, and the cities—to expend money, then I believe we have gone too far. If we feel strongly enough about an issue that we wish to pass a law to enforce action on the States and the counties and the cities, then we ought to pay for the costs which we create as a result of that issue. It is unfair, it is inappropriate for us to be taking credit for the public policy decisions which we make but not be willing to pay the costs of those public policy decisions which must be borne.

In many communities, the tax dollars of those communities are raised through property taxes, and those tax dollars are near and dear to the people they are taken from. People who pay those tax dollars would like to have some control over their locally raised funds. They go for education, they go for police, they go for fire. But in almost every community across this country, the locally raised funds are not being expended today on behalf of locally directed initiatives, but are being expended as a result of directiveness from the Federal Government. That is not right. It is not fair.

If the Federal Government wishes to direct public policy, then it should pay for that public policy through Federal revenues. It should not require that local governments use up their tax bases, whether they are property taxes, local sales tax, or local income tax. It should not require those local tax revenues and tax sources be applied to Federal programs, rather Federal programs should be paid for by the Federal Government.

The proposal that has been put forward here by the Senator from Kentucky is a reasonable one. It does not say that we should ban outright unfunded mandates. I happen to feel we should ban unfunded mandates, and in fact, I will be introducing legislation later on in this session, with many cosponsors, especially new Members on the Republican side of the aisle, which will accomplish just that. But what this proposal does is say that if we are going to take this extraordinary step of saying to a local Government, we are going to spend the money that you raise rather than the money that we raise, if we are going to take this extraordinary step of mandating on to our local governments costs which they may not want to incur and which they may think are inappropriate relative to the proper priorities which they put in place for spending their money, then we are going to have to pass that legislation with a supermajority and that makes sense.

I cannot believe, quite honestly, that there is not a Senator who has gone back to their State who has not had a fairly continuous complaint or series of complaints coming from their local officials, whether they are county officials, State officials, or community officials, or from the private sector offi-

turned to his or her State and not found that there is an overwhelming desire to put an end to this practice which the Federal Government has pursued with such enthusiasm over the last 10 years.

This is really a phenomenon that has gained in momentum in the last 10 to 12 years. As we have been confronting these significant deficits at the Federal level, the pressure to undertake public policy action which incur costs have been restricted by our lack of revenues at the Federal level.

In response to that restriction, we have seen this new—not new—but this expansion of this phenomenon known as unfunded mandates where we still want to pass public policy that impacts public spending, but we are not willing to pay for it any longer. Rather, we are going to pass the policy, we are going to send the bills to the towns, to the cities, to the counties, to the States to pay, and it is not fair and it is not right.

If we want to be responsible as a body and as a Government when we pass these programs, we should pay for them. What we should not be doing is passing these programs and then asking the local communities, States, and the counties to pay for them.

So I congratulate the Senator from Kentucky. I think this is a superb amendment and I certainly hope that other Senators will be attracted to it.

Mr. MCCONNELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, I want to commend the Senator from New Hampshire who, of course, was recently a Governor and experienced this problem firsthand and the work he has done in this area. I am looking forward to the legislation I know he is developing; and in all likelihood I will be added as a cosponsor to that legislation. I want to thank him for his leadership on this most important issue.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The senior Senator from Kentucky is recognized.

Mr. FORD. Mr. President, this is not something in general I oppose. In 1987, I submitted an amendment. It was in dollars rather than a percentage of the Senate Chamber, a $50 million mandate. A point of order was made against anything over that amount. Then we would have to go through the normal process. I have been a Governor. I understand what we do to States.

But also there are some things I like that I am going to pay a percentage of, and if 41 Senators here do not like it, then my State does not get it under this amendment because it is said that three-fifths of the Senate has to agree.

My State is going to want health care. My State is going to call a special session to try to do its own health care, as the Senator probably understands the problems of various and sundry States.

Now, if my State is willing to pay some funds under health care and others do not like that, then a minority of the Senate would prevent my State from having health care because it would be somewhat a percentage of unfunded mandates.

What about the highway program, 80–20, 70–30? We are not funding 100 percent of that. Is the Senator opposed to the highway program? That is an unfunded mandate.

And so I would say it was more a majority of the Senate rather than three-fifths. It may be a good spending bill; it may be a positive bill. It may be welfare reform. What is wrong with welfare reform? Well, if some in the Senate did not like it, 41 did not like it, why then we do not get welfare reform. We may be requiring the States to do more than they are now. Many States are. Maybe the Senator's State has. I am not sure. I think the dollar amount is probably better than——

Mr. GREGG. If the Senator will yield.

Mr. FORD. Through the Chair, I will be glad to.

Mr. GREGG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. GREGG. How we get there, how we get to this end, limiting unfunded mandates can be accomplished in a number of ways. You can cut the pie a number of ways. If the Senator would like at this time to reoffer the proposal that the Senator made—and I was not in the body at the time but I am sure I would have been supportive of it—I would agree by unanimous consent to accept it and put it in the rules right now.

Mr. FORD. It would be a statutory provision, and it is a money amount rather than a vote of the Senate. Limiting it to three-fifths rather than a majority, I am not sure that this may be a question of whether it changes the rules or even under a resolution it overrides statutory provisions.

Mr. MCCONNELL. Will the Senator yield?

Mr. FORD. Yes, I will be glad to yield. I feel like I am getting whipped here.

Mr. MCCONNELL. The Senator had earlier, it seems to me—I could stand corrected, but looking at the CONGRESSIONAL RECORD, April 7, 1987, it was my understanding that the Senator had introduced legislation that would prohibit Congress from imposing unfunded mandates upon State and local governments. It simply established—this is an explanation of the bill the Senator introduced April 7, 1987—"simply establishes a procedural red flag to ensure that we are fully aware of the true fiscal impact of the requirements Congress imposes upon these governments. This bill would create a point of order against legislation which imposes a net cost of $50 million or more and States and localities."

I am not going to speak for my colleague from New Hampshire but the thought occurred to me, as the author of this amendment, I have the right to modify the amendment. If I could modify my amendment consistent with the legislation the Senator had previously supported, would that then make it acceptable to the Senator from Kentucky?

Mr. FORD. I say to my friend that I have been trying this for some time. It has fallen for some 5 years now. All of a sudden it becomes the thing to do. Maybe I was before my time.

But let me ask the two Senators if we could get together and let me talk with some folks to be sure that we clear the decks. It needs to go through the Finance and Appropriations Committees I think before we can approve it.

Mr. MCCONNELL. I might say, Mr. President, if the Senator is still yielding, I would be more than happy to set this amendment aside for a period of time and let us discuss it, provided we have the right to bring it back up later.

Mr. FORD. There is no question about it. I would be pleased to do that but I do not see anybody else around here with an amendment.

So, Mr. President, I ask unanimous consent that the amendment by Senator MCCONNELL of Kentucky be set aside temporarily so that we might discuss it and at some point it be appropriate to bring it back to the Senate.

Mr. MCCONNELL. Mr. President, reserving the right to object, it is my understanding then that we would revisit this issue later this afternoon.

Mr. FORD. This bill will be finished today. It does not make any difference; 4 o'clock, 5 o'clock, 6 o'clock, whatever it is, we are going to finish the bill today, and the Senator's amendment will be considered either with an agreement or stand alone as he now has it.

Mr. MCCONNELL. Mr. President, I have no objection.

I ask unanimous consent that Senator SMITH be added as a cosponsor of my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Without objection, the unanimous-consent request of the Senator from Kentucky is agreed to.

Mr. FORD. I thank my colleague.

We only have two other amendments I think that are out there. I believe one is by Senator BROWN, and basically that would be acceptable. If we could have Senator BROWN here or if the staff will give me his amendment, I would be glad to propose it and get it behind us.

Mr. President, I suggest the absence of a quorum.

have Senator BROWN here or if the staff will give me his amendment, I would be glad to propose it and get it behind us.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from Kentucky [Mr. FORD] suggests the absence of a quorum.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BROWN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. MITCHELL. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The clerk will continue to call the roll.

The assistant legislative clerk continued calling the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. Mr. President, the Senator from Colorado [Mr. BROWN] has an amendment that is acceptable. I yield the floor so he might be recognized.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

AMENDMENT NO. 63

(Purpose: To ensure that unspent Senate committee funds are not carried over)

Mr. BROWN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Colorado [Mr. BROWN] proposes an amendment numbered 63.

At the appropriate place, insert the following:

"UNEXPENDED SURPLUSES

"SEC. . In order to ensure that the funds appropriated from the Federal Treasury for the operation of the United States Senate are subject to requirements similar to those imposed on funds appropriated from the Treasury for the operation of executive branch agencies or departments, in regard to the availability of appropriated funds beyond the time periods for which such funds are appropriated, no committee of the Senate may carry over an unexpended balance beyond March 1, 1995.".

Mr. BROWN. Mr. President, this measure has been cleared on the majority side. It simply puts in place our intention to treat potential rollover funds from the Senate committees the same way that other expenditures by this Congress are treated. What it does is clearly express our intent that rollovers in the future be prohibited. It does not affect the potential rollovers this year. I ask that at this point a factsheet on the amendment and a list of agencies and programs that do not have the same luxury that we have of carrying forward unexpended balances be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE BROWN AMENDMENT TO S. RES. 71

STRAIGHTFORWARD COMMITTEE BUDGETING

What does it do?

Prevents Committees from carrying forward surpluses after March 1, 1995.

Why is it necessary?

We owe America's taxpayers honesty in budgeting. If we want to spend more money, we should not try to finesse the public—our proposals should be clear and unambiguous. The current proposal, permitting unexpended surpluses to "roll" forward [50 percent to the Committees, the remainder into a "special reserve"] actually increases what Committees are authorized to spend in the coming year.

S. Res. 71 provides $55,696,935 through March 1, 1994.

Through September 1993 the Resolution also authorizes the use of the lesser of 50 percent of the unexpended balances or a fixed sum of $3,186,225 divided among the committees.

S. Res. 71 also places the remainder of the unexpended balances in a "special reserve" to be used by Committee Chairmen/Ranking Members on a for emergency needs.

a. Unexpended Committee Balances: $11,334,836 (as of Feb. 12, 1993).

b. Projected Unexpended Balances: $5,378,117 (on Feb. 28, 1993).

Total Available for Committees, S. Res. 71: $61,075,052 (Using (b) Projected Unexpended Balances), or

Total Available for Committees, S. Res. 71: $67,031,771 (Using (a) Unexpended Balances as of 2/12).

In either case, S. Res. 62, the 1991–92 spending resolution, authorized only $60,391,993 in Committee spending. S. Res. 71 authorizes an increase in Committee spending:

Smallest increase: $683,059.

Largest increase: $6,639,778.

Permitting carryover does not decrease Committee requests, it increases them.

In past years, carryover has never saved money. In fact, for requests for the next two years Committees have requested increases in their funding even though they were permitted to carry forward a percentage of their excess. For instance:

Environment Committee:
Surplus: $275,000.
Request: 9 percent increase.
Finance Committee:
Surplus: $255,238.
Request: 16.79 percent increase.
Foreign Relations Committee:
Surplus: $532,019.
Request: 4.89 percent.
Judiciary:
Surplus: $245,000.
Request: 2.89 percent increase.
Intelligence Committee:
Surplus: $500,000.
Request: 15.40 percent increase.
Small Business:
Surplus: $128,545.
Request: 0.22 percent increase.
Governmental Affairs:
Surplus: $602,300.
Request: 2.6 percent increase.
Armed Services:
Surplus: $486,064.
Request: 3.93 percent increase.

Total Committee Requests: 0.63 percent increase.

Rollover and "padding" in legislative appropriations to accomodate it, permits Senate Committees to circumvent restrictions most governmental agencies must comply with:

The vast majority of executive branch agencies as well as the judicial branch lose their unexpended surpluses each year. Only those which Congress specifically exempts by law may "carryover" an unexpended balance.

In most instances, this permits multi-year contracts and long-term U.S. government commitments to be fulfilled. This authority is seldom extended to agencies for salaries and expense accounts.

How is the Senate able to carry over unexpended balances?

By insuring that the legislative branch appropriations bill includes enough "excess" to accomodate projected committee "rollover."

In an era of purported deficit reduction, adding enough excess to cover a Senate "rollover" that amounts to a spending increase is a luxury the United States cannot afford.

Agencies and programs not authorized to carry unexpended balances forward:

DEPARTMENT OF VETERANS AFFAIRS

Veterans insurance and indemnities.
Veterans Direct Loan Program Account.
Veterans Loan Guaranty Program Account.
Veterans Education Loan Fund Program Account.
VHA Medical Care (limited exceptions).
VHA Medical and Prosthetic Research.
VHA Health Professional Program.
VHA Health Professional Education Loan Payment Program.
VHA Medical Administration/Miscellaneous Operating Expenses.
VHA Transitional Housing Loan Program.
Operating expenses for the Veterans National Cemetery System.
Veterans Kept Office of the Inspector General.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Payments of Operation of Low-Income Housing Projects.
Housing Counseling Assistance.
FHA-Mutual Mortgage Insurance Program Account.
FHA-General and Special Risk Program Account.
Guarantees of Mortgage-backed securities loan guarantee program.
Management and Administration.
Office of Inspector General.

EXECUTIVE OFFICE OF THE PRESIDENT

Council on Environmental Quality and Office of Environmental Quality.
National Space Council—Salaries and Expenses.
Office of Science and Technology Policy.
The Points of Light Foundation.
Disaster Assistance Direct Loan Program Account—S&E.
Office of Inspector General.
Emergency Management Planning and Assistance.

GENERAL SERVICES ADMINISTRATION

Consumer Information Center.

NASA

Research & Program Management.
Office of Inspector General.

DISTRICT OF COLUMBIA

Presidential Inauguration.
Trauma Care Fund.
Public Safety and Justice.
Public Education System.
Starplex Fund.
Cable Television Enterprise Fund.

Lottery and Charitable Games Enterprise Fund.
Furlough Adjustment.
Capital Outlay.

NATIONAL CREDIT UNION ADMINISTRATION

Central Liquidity Facility.

NEIGHBORHOOD REINVESTMENT CORPORATION

Payment to the Neighborhood Reinvestment Corporation.

SELECTIVE SERVICE SYSTEM

Salaries and Expenses.

FEDERAL DEPOSIT INSURANCE CORPORATION

FSLIC Resolution Fund.
FDIC Affordable Housing Program.
Bank Enterprise Program.

RESOLUTION TRUST CORPORATION

Office of the Inspector General.

DEPARTMENT OF AGRICULTURE

USDA Rental Payments.
Building Operation and Maintenance.
Economic Research Service.
National Agricultural Statistics Service.
World Agricultural Outlook Board.
Alternative Ag Research and Commercialization.
Agricultural Research Service.
National Agricultural Library.
Salaries for the Animal and Plant Health Inspection Service.
Food Safety and Inspection Service.
Salaries and Expenses for the Federal Grain Inspection Service.
Inspection and Weighing Service.
Agricultural Cooperative Service.
Agricultural Marketing Service.
Packers and Stockyards Administration.
Farm Income Stabilization.
Agricultural Stabilization and Conservation Service—Salaries and Expenses.
Administrative and Operating Expenses—Federal Crop Insurance Corporation.
Commodity Credit Corporation:
Reimbursement for net realized losses;
Operations for Hazardous Waste Management; and
General Sales Manager
Solid Conservation Service:
River Basin Surveys and Investigations; and
Watershed Planning.
Rural Development Administration.
Farmers Home Administration:
Rural Housing Insurance Fund Program Account;
Rental Assistance Program;
Self-Help Housing Land Development Fund Program Account;
Agricultural Credit Insurance Fund Program Account;
State Medication Grants;
Rural Development Insurance Fund Program Account;
Rural Development Loan Fund Program Account;
Rural Development Grants;
Solid Waste Management Grants;
Emergency Community Water Assistance Grants; and
Salaries and Expenses.
Rural Electrification Administration:
Rural Telephone Bank Program Account;
Rural Economic Development Loans Program Account; and
Salaries and Expenses.
Emergency Food Assistance Program.
Food Program Administration.
Human Nutrition Information Services.
Foreign Agricultural Services.
Debt Restructuring Under the Enterprise for the Americas.
Short-term Export Credit.
Intermediate Export Credit.
Emerging Democracies Export Credit.
CCC Export Loans Program Account.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration:
Salaries and Expenses; and
FDA Rental Payments.
Health Education Assistance Loans Program.
Centers for Disease Control—Disease Control, Research and Training.
National Institutes of Health:
National Cancer Institute.
National Institute of Dental Research;
National Institute of Diabetes and Digestive and Kidney Disease;
National Institute on Alcohol Abuse and Alcoholism;
National Institute on Drug Abuse;
National Institute on Mental Health;
National Institute of Neurological Disorders and Stroke;
National Institute of Allergy and Infectious Diseases;
National Institute of General Medical Services;
National Institute of Child Health & Human Development;
National Eye Institute;
National Institute of Environmental Health Sciences;
National Institute on Aging;
National Institute of Arthritis and Musculoskeletal Skin Diseases;
National Institute on Deafness and Other Communications Disorders;
National Center for Research Resources;
National Center for Nursing Research;
National Center for Human Genome Research;
National Library of Medicine; and
Office of the Director.
Substance Abuse and Mental Health Services Administration—Alcohol, Drug Abuse and Mental Health—99 percent.
Health Care Policy Research.
Health Care Financing Administration—Payments to Health Care Trust Funds.
Refugee Assistance.
Community Services Block Grants.
Aging Services Programs.
Office of Inspector General.
Office for Civil Rights.

DEPARTMENT OF THE TREASURY

Financial Management Service.
Commodity Futures Trading Commission.
Farm Credit Administration.

DEPARTMENT OF JUSTICE

Office of Inspector General.
U.S. Parole Commission—Salaries and Expenses.
Foreign Claims Settlement Commission—Salaries and Expenses.
U.S. Marshals Service—Salaries and Expenses.
Radiation Exposure Compensation—Administrative Expenses.
87 percent of funding for Organized Crime Drug Enforcement.
Federal Bureau of Investigations—95 percent of Salaries and Expenses.
Drug Enforcement Administration—97 percent of Salaries and Expenses.
Immigration and Naturalization Service—More than 90 percent of Salaries and Expenses.
Federal Prison System—97 percent of Salaries and Expenses.
Commission on Civil Rights—Salaries and Expenses.
Equal Employment Opportunity Commission—Salaries and Expenses.
Federal Communications Commission—Salaries and Expenses.
Federal Maritime Commission—Salaries and Expenses.
Federal Trade Commission—Salaries and Expenses.
Securities and Exchange Commission—Salaries and Expenses.

DEPARTMENT OF COMMERCE

Coastal Zone Management Fund.
Fishing Vessel Obligations Guarantees.
Office of Inspector General.
Economic Development Administration:
Economic Development Assistance Programs; and
Salaries and Expenses.

THE JUDICIAL BRANCH

U.S. Supreme Court—Salaries and Expenses.
U.S. Circuit Court of Appeals—Salaries and Expenses.
U.S. Court of International Trade—Salaries and Expenses.
Courts of Appeal, District Courts, and others—Salaries and Expenses.
Administrative Office of the U.S. Courts—Salaries and Expenses.
National Commission on Judicial Discipline/Removal—Salaries and Expenses.
U.S. Sentencing Commissions—Salaries and Expenses.

DEPARTMENT OF STATE

Salaries and Expenses.
Office of Inspector General.
Representation Allowances.
Protection of Foreign Missions and Officials.
Arms Control and Disarmament Agency.
Board for International Broadcasting.
U.S. Information Agency:
Salaries and Expenses;
Office of Inspector General;
Eisenhower Exchange Fellowship Program Trust Fund; and
East-West Center.

DEPARTMENT OF TRANSPORTATION

Coast Guard Operating Expenses.
Coast Guard Reserve Training.
FAA Operations.
FAA Aircraft Purchase Loan Guarantee Program.
Federal Highway Administration Motor Carrier Safety Grants.
Fed Railroad Administration National Magnetic Levitation Prototype Development.
Office of the Inspector General.
Panama Canal Commission—Revolving Fund.

OTHER

Marine Mammal Commission.
Legal Services Corporation.
Small Business Administration:
Office of Inspector General; and
Business Loans Program Account.

Mr. BROWN. Mr. President, the distinguished Senator from Alaska has not had an opportunity to review this. I would like to delay final action on this amendment until the Senator has had a chance to look at it.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. Mr. President, my distinguished friend, the ranking member on

the Rules Committee, is here. He has reviewed the amendment that was presented by the distinguished Senator from Colorado [Mr. BROWN], and we are both now prepared to accept the amendment. For the majority side, I do accept it.

Mr. STEVENS. Mr. President, I agree with my good friend, the chairman of the Rules Committee and am prepared to accept it also. I just informed the Senator from Colorado that we all realize that there will be another election involved in the Senate, and before this takes place, if another Senate decides to reallocate some of these funds in the future, this does not tie their hands. I agree that this is a good concept. We do not like committees to carry over funds. I approve of the basis of this resolution.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 63) was agreed to.

Mr. FORD. Mr. President, I move to reconsider the vote.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. FORD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SIMON). Without objection, it is so ordered.

Mr. BYRD. Mr. President, what is the pending question before the Senate?

The PRESIDING OFFICER. The pending question is the McConnell amendment.

AMENDMENT NO. 62

Mr. BYRD. Mr. President, this amendment would make it out of order for the Senate to consider any bill, joint resolution, or amendment that would have the effect of placing an unfunded Federal mandate on the States or subdivisions thereof. The amendment would allow a waiver by a vote of three-fifths of the Senate.

What this would mean, Mr. President, is that the Senate would be required to have a supermajority of 60 votes in order to amend existing Federal mandates on the States or to create new ones for a host of Federal programs.

For example, the President has indicated that he believes the States should be required to pay a share of the cost of defaults on student loans. At the present time, these defaults cost the Federal Government as much as $3 billion annually. If the States were mandated to pay a portion of these defaults, it might well encourage States to help ensure that students repay their loans rather than defaulting on them. Under this amendment, a vote to require the States to share in the cost of defaults on the student loans would require a 60-vote waiver.

Now, Mr. President, one could speak at considerable length to indicate the problems that would confront the Senate in the event this order were to be approved.

I would like to make a few comments concerning the procedural approach, being used by the able Senator from Kentucky [Mr. MCCONNELL].

Under this amendment, and I read as follows:

> It is the order of the Senate that no question on final passage of any bill, joint resolution, concurrent resolution, or resolution and no question on the adoption of any amendment shall be put——

I will halt the reading of the amendment at that point. "No question shall be put."

Now, Mr. President, when an amendment or other matter is before the Senate and no Senator seeks recognition, and in the event a time agreement has run its course, the Chair is required to put the question, under the rules and precedents of the Senate. This proposed order introduced by the distinguished Senator from Kentucky [Mr. MCCONNELL] would have the effect of throwing such precedents out of the window.

So, hereafter, when a question arises dealing with unfunded Federal mandates which require a State or subdivision to take certain action, under Senator MCCONNELL's amendment, when all debate had ceased, even at the conclusion of a time agreement, it seems to me the Chair would not be able to put the question. All time, let us say, has expired; the question is before the Senate; no Senator rises to seek recognition. What does the Chair do? Under the current rules and precedents of the Senate, the Chair automatically puts the question. But not so, if the pending amendment by Mr. MCCONNELL is agreed to.

We often hear Senators say, "I move the adoption of the resolution," or, "I move the adoption of the amendment." There is no such motion under the Senate rules. When a Senator "moves," he makes a motion. There is no such motion under Senate rules. There is no need for such in the Senate. Just sit down. Take your seat. And when no Senator seeks recognition, the Chair will automatically put the question on the matter pending before the Senate. The Chair will say, the question is thus and so; those in favor will say "aye" and those opposed "no," and so on. The Chair automatically does that under the precedents and rules that have governed the debates and actions of the Senate for these many, many decades.

But Mr. MCCONNELL's amendment would say that no question on the adoption of any amendment shall be put if it contains an unfunded Federal mandate.

Second, what would the Senate do under rule XXII if the Senator's amendment were to become an order of the Senate? Suppose a question arose in the Senate on the adoption of an amendment that contained an unfunded Federal mandate requiring a State or subdivision of a State to take certain action, and suppose that amendment were filibustered. We have not had a good filibuster around the Senate in a long time, but under the rules, there is always the possibility. Suppose cloture is invoked on that amendment. What happens when cloture is invoked under the rules?

Under the rules, at a certain point, which I will not elaborate on, the Chair will put the question: Is it the sense—in the event a cloture motion has been introduced, the Chair will put the question: Is it the sense of the Senate that debate shall be brought to a close?

Now, if that question is decided in the affirmative by three-fifths of the Senators duly chosen and sworn, then what happens? Well, without going into detail, there is a point that is reached eventually after which the Chair will have to put the question on that amendment. Let us say that cloture has been invoked and rule XXII has run its course and the time comes when the matter is to be put to a vote.

The rule says, after no more than 30 hours of consideration of the measure, motion, or other matter on which cloture is invoked, the Senate shall proceed without any further debate on any question to vote on the final disposition thereof, to the exclusion of all amendments not then actually pending before the Senate at that time, and to the exclusion of all motions, et cetera, et cetera.

The Senate shall proceed to a vote. What does the pending amendment say?

This amendment, in effect, says we should disregard rule XXII after cloture has been invoked. The rule has run its course. But no question on the adoption of the amendment shall be put.

So then therein lies another problem. First of all, we have the problem when a time agreement has expired and the Chair is to put the vote, all time has been used or yielded back, the Chair has put the vote, the Chair cannot put the vote on this question. What are we to do? Do we just go on and on and on? The time has run out. There can be no further debate. All time has been used or yielded back. The Chair cannot put the question. What do we do? Under the Senator's pending amendment, we could not debate the matter further, but we also could not vote. The Senate could not work its will. We would be in limbo.

Point No. 2, as I said, has to do with the situation when cloture is being invoked.

Mr. President, ordinarily the rules can be changed in ways that are set forth under the rules. But a day's notice in writing should be given. This amendment does not require that. It does not mention a change in the rules, per se. It does not say anything about changing any rule.

Presently, a proposed change in the Senate rules, if it were filibustered, would require two-thirds, a supermajority, to cut off a filibuster.

But not so with this order. It does not propose, on its face, any rules change, and, therefore, does not require a two-thirds vote to shut off a filibuster. However, it does, in effect, change Senate rules and precedents. If a filibuster were to occur on the McConnell amendment, as it is now pending before the Senate, only a three-fifths majority would be required to shut off the filibuster. Yet, it would change Senate rules and precedents.

So, it gets around the two-thirds requirement, does it not? I have another problem with this amendment.

Mr. President, I have a high regard for the distinguished Senator from Kentucky [Mr. MCCONNELL]. He has been lately appointed to be a member of the Appropriations Committee, which I chair, and I know that he will be an effective member of that committee. I have heard that Mr. MCCONNELL is a good lawyer. I have never practiced law. But, Mr. President, a person does not have to practice law to read the Constitution. One of the problems that we in Congress have from time to time is, we fail to go back and read the Constitution. I try to make it a point to read the Constitution during every break. Read the Constitution. It is much like reading the Bible. Every time I read the Constitution, I find something there that I had not noticed before.

So we Senators ought to read the Constitution often.

I have been told that a good lawyer knows where to find the law—where to look it up, where to find it. Certainly we all know where to find the Constitution. There is no problem in finding the Constitution. Let us read the Constitution to see what it says about this amendment.

Let me find the Constitution here. This book is the Senate manual. It contains many items, one of which is the U.S. Constitution.

I find in the Constitution a provision which might be well for all Senators to remember. Here it is:

"The yeas and nays of the Members of either House"—that includes the Senate—"on any question"—it does not say most questions or some questions or a question now and then—"on any question shall"—it does not say may—it says "shall at the desire of one-fifth of those present be entered on the Journal."

I say to my friend from Kentucky, Mr. MCCONNELL, let us see what his amendment says. It says "no question on the adoption of any amendment shall be put."

The Constitution says "the yeas and nays shall be entered on the Journal."

How are we going to get the yeas and nays entered on the Journal unless the question is put? On any question, if one-fifth of the Members present—it need only be five Members or less than that, only one Member—if there are only five Members present, and one wants the yeas and nays, under the Constitution, a rollcall vote is required.

That is what the Constitution says.

Let me say again, what does this amendment by Senator MCCONNELL say?

"No question on the adoption of any amendment shall be put if it contains an unfunded Federal mandate." It says, the Constitution notwithstanding, "No question shall be put."

But the Constitution does not read that way. It says "The yeas and nays of the Members of either House on any question"—on any question. Let it be a question dealing with the adoption of any amendment that contains an unfunded Federal mandate that requires a State or subdivision of a State to take certain action. Let it be. Let it be that question. The Constitution says "on any question shall"—may not—"shall, at the desire of one-fifth of those present," et cetera.

Mr. President, we cannot flout the rules and precedents of the Senate. Of course, we cannot flout the Constitution. But leaving aside the Constitution for a minute, this order would be thrown out in a court faster than you can cook asparagus, as the Emperor Augustus used to say. Augustus was the first Roman emperor, and reigned between the years 27 B.C. and 14 A.D.

That was his way of saying that things should be done in a hurry. He would say it would happen "quicker than asparagus could be cooked." Take this order into a court of law, Mr. President, and the court will throw it out "quicker than you could cook asparagus." Such an order would fly in the face of the Constitution.

Suppose this order were to be approved by the Senate, and a question under this amendment were later pending and a Senator asked for the yeas and nays and the request were sustained by one-fifth of the Senate, what is the Chair going to do? Is the Chair going to look at this order and say: I cannot put that question. Or is the Chair going to look at the Constitution? The Chair is going to look at the Constitution.

Mr. President, I do not believe that the Senator from Kentucky really understands what his amendment does. He probably understands as much as I do about the substance. But I do not believe the Senator from Kentucky really understands what he is doing to Senate procedure here. I have a feeling that some staff person has drawn up this amendment. We all depend upon our staffs to do these things, but when it comes to procedure, Senators have to be pretty careful. We ought to know something about procedure ourselves. At least we ought to talk to the Parliamentarian.

But if we start down this road, Mr. President, changing the Senate rules and precedents by an order of the Senate, there is no end to the chaos and mischief that we can bring upon ourselves.

I say this to the minority: We have a majority leader who is very careful about trampling on the rights of the minority. Having been a majority leader myself and having been a minority leader as well, I want zealously to guard the rights of the minority, likewise. There can come a day when the majority may be on the other side of the aisle and we on our side in the minority. So, I want to protect the rights of the minority.

I hope that Senators on the minority side will not vote for this amendment, because if we are going to use this approach to, in effect, change the rules, without saying we are changing the rules, the minority will be crushed. I say to my friend, Mr. MCCONNELL, beware, you can be crushed. A majority is a majority is a majority is a majority.

Mr. President, just to demonstrate some of the havoc that could occur, an example of what could be done to the minority, I am going to offer an amendment to the Senator's amendment. Let me read a portion of rule XXVII:

> The staffs of committees (including personnel appointed pursuant to authority of a resolution described in paragraph 9 of rule XXVI or other Senate resolution) should reflect the relative number of majority and minority members of committees. A majority of the minority members of any committee may, by resolution, request that at least one-third of all funds of the committee for personnel (other than those funds determined by the chairman and ranking minority member to be allocated for the administrative and clerical functions of the committee as a whole) be allocated to the minority members of such committee for compensation of minority staff as the minority members may decide.

Mr. President, on the Appropriations Committee we do not require the minority to offer a resolution requesting a third of all of the funds. We just do it as a courtesy. The minority on the Appropriations Committee gets a third of those funds; they are entitled to it. Having been in the minority, I would like to have at least a third of the committee funds.

It is a good thing, and it is a great experience—few Members here have had the experience—of having been both a majority leader and, at another time, a minority leader. I have had such honors. You get to see both sides. I know how it pinches when the mi-

nority's foot is stepped on, because I used to be the minority leader.

When Cineas Grecinus, a Roman, divorced his wife, he was asked by his friends, "Why did you divorce your wife? Was she not fair? Was she not chaste? Was she not of noble birth?" He said, "Yes. Do you see that shoe? Is it not new, is it not fashionable? Yet, no one knows where it pinches, except I. I wear it."

So having been leader of the minority, I know how the shoe pinches. But let me demonstrate how it can pinch.

My amendment, which I shall offer to the Senator's amendment, would, by order of the Senate, say—not by changing the Senate rules—it is the order of the Senate that the salaries of the staff of committees of the Senate shall be determined and controlled by the majority of each committee.

My amendment is an appropriate amendment in the second degree to the Senator's amendment.

It says:

Subsection (a) may be waived only by the concurrence of three-fifths of the Senators duly chosen and sworn.

If, under my amendment, this order were to be entered by the Senate—it makes no reference to the Senate rules—it would mean then that the majority would control the salaries of all the staffs of all committees of the Senate.

So here is a poor, little old minority in the Senate, that is going to be pressed down, pressed down. And is there a game called "squash"? The minority are going to be squashed by the majority and they will take all your staff away from you.

But I am going to offer this amendment and then I will move to table the underlying amendment. I certainly would not want to see this amendment——

Mr. MCCONNELL. Mr. President, will my friend from West Virginia yield?

Mr. BYRD. Yes, but let me finish my sentence.

I do not want the Senate to approve the order offered by the Senator from Kentucky, and I would not want the Senate to approve the order that I am offering as a second-degree amendment. So I will just move to table both.

I yield to the Senator from Kentucky.

Mr. MCCONNELL. It is just for observation.

The Senator from Kentucky has been listening carefully to the observations of the distinguished chairman of the Appropriations Committee. I think many of them raise a very good point.

I have been waiting for the purpose of withdrawing the amendment, having had some discussions with the chairman of the Rules Committee who indicates that this proposal would be given hearings at some time before May, it is my understanding.

I would like to gain the floor for the purpose of withdrawing the amendment and learning more through the hearings about the impact of this on the operations of the Senate, as the distinguished chairman has indicated.

Mr. BYRD. Mr. President, I compliment the distinguished Senator for his decision to withdraw the amendment, and, in that case, I will yield the floor and not offer my amendment.

Mr. FORD. Mr. President, I just want to clarify one point for future debate on this issue. It is my understanding that the National Governors Association and the National Conference of State Legislatures do not endorse specific legislation, and that this position was communicated along with the letter of support included in the RECORD earlier by my colleague. While at least these two organizations listed as signatories take this position, they do generally support efforts to address the issue of unfunded mandates.

In fact, these two organizations may have serious concerns about the impact this particular approach would have on both current negotiations on health care reform and on efforts to pass a deficit reduction package. Furthermore, one of the organizations advises that it has never been in a position to support efforts that supercede the normal legislative process, which is precisely what this amendment would do.

With my long-standing interest in efforts to address the unfunded mandate issue, I look forward to receiving input and comments from these groups and others on this specific amendment and other proposals for dealing with unfunded mandates.

Mr. President, I ask that a letter from the director of the Washington Office of the National Conference of State Legislatures be included in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NATIONAL CONFERENCE OF
STATE LEGISLATURES,
Washington, DC, February 25, 1993.

Hon. WENDELL H. FORD,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR FORD: I am writing to clarify Senator McConnell's representation of the National Conference of State Legislature's (NCSL) position on his mandate relief amendment (S. Res. 71). NCSL has not endorsed, at this time, either Senator McConnell's amendment or any other particular piece of mandate relief legislation. NCSL cares deeply about this issue and seeks to pursue deliberations and consultations with you and other federal policymakers in order to construct appropriate resolutions to our concerns.

We do send letters of acknowledgement to individuals who sponsor mandate relief legislation. Senator McConnell received such a letter on the morning of February 25th. This letter, signed by NCSL and fourteen other organizations, does not specifically support Senate Resolution 71 or any other piece of legislation.

Sincerely,

CARL TUBBESING,
Director, Washington Office.

Mr. MCCAIN. Mr. President, I strongly support the McConnell-Gregg-McCain amendment before the Senate at this time. This amendment makes any question on the adoption of any measure or matter before the Senate out of order if that measure of matter contains any unfunded Federal mandates on the States. Further, it allows the provision to be waived by an affirmative vote of three-fifths, of the Senate.

Mr. President, this is a simple amendment and it is long overdue. I believe that not only will State and local officials agree that we need this amendment, but the public as a whole will strongly support the idea that what the Senate mandates, the Senate should fund.

Mr. President, too often we force the States and local governments to live up to Federal mandates, many of which are very noble and well-intended, but for which we do not fund. This is wrong. If there is an issue which is important enough to force upon the States and local communities, then we have an obligation to pay for the costs associated with such issues.

Let me clarify, this amendment will in no way ban the ability of the Senate to pass unfunded mandates, but it places an important safeguard into the rules of the Senate to prevent the Senate from cavalierly passing unfunded Federal mandates.

It is time we allow those elected officials closest to the people of America—local elected officials—to operate in a manner that is not burdened by unfunded Federal mandates. We must be fair. If we believe in some cause, we should be prepared to pay for it.

Mr. President, it is time we passed this amendment.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. MCCONNELL. Mr. President, I withdraw my amendment.

The PRESIDING OFFICER. The Senator has that right.

So the amendment (No. 62) was withdrawn.

Mr. MCCONNELL. Mr. President, let me just say very briefly that issue of unfunded mandates on the States is one that this Senator and a number of Senators on our side, including Senator MACK, Senator GREGG, Senator COVERDELL, Senator DURENBERGER, and Senator MCCAIN, as well as the chairman of the Rules Committee, think is extremely important. It is clear that it is not going to move forward in this form on this day. But this is an issue that is coming back and I want to thank the chairman of the Rules Committee for his willingness to——

Mr. FORD. May I be very careful with my friend? He said before May.

Mr. MCCONNELL. That was my understanding.

Mr. FORD. It was in May.

Mr. MCCONNELL. I want to thank my colleague from Kentucky for his

willingness to have this included in Rules Committee hearings that will be held before the Rules Committee.

I also thank the distinguished chairman of the Appropriations Committee for his enlightenment on this issue.

I would like to think my momma did not raise foolish children. This Senator did not come over here to debate the rules with the chairman of the Appropriations Committee. This Senator came over here to raise the issue of unfunded mandates on the States. I think it is going to be an increasingly difficult issue. We should be responsible in that regard.

I thank former Governor GREGG, one of our colleagues, who is doing work on this issue and will be presenting a bill, I understand.

Mr. GREGG. Mr. President, will the Senator yield?

Mr. MCCONNELL. I yield to my friend from New Hampshire.

Mr. GREGG. Mr. President, I thank the Senator from Kentucky for raising this issue.

I appreciated the presentation on the rules by the Senator from West Virginia. It was extremely informative to me as a new Member of the Senate. That goes to the procedural questions of the issue, but substantively there can be no question on this issue.

The point that this amendment got to the substance of the issue was it is time for the Federal Government to stop passing costs down. It is time for the Federal Government to pay bills that it creates and passes on to local and State governments. This issue is critical. I understand the chairman from Kentucky managing this bill has agreed to have hearings on it, and he has his own concepts and ideas put forward in prior sessions of the Senate which to me is an exciting fact and one which I would follow up on.

I congratulate the Senator from Kentucky for bringing this matter forward and hopefully, as the hearings process goes forward, we can elicit more information and make it very clear that the substance of this amendment is the direction the Senate should move in. I also have legislation to address that.

Mr. MCCONNELL. I thank my friend and colleague from New Hampshire for his good work on this issue.

Mr. President, I yield the floor.

Mr. FORD. Mr. President, we have one more amendment, as I understand it, and 50 percent of the parties are here in order to present that. We think we have it worked out where it will be agreeable to both the majority and the minority. If we could do that, then with one colloquy we could go to final passage.

Can we get Senator HELMS to the floor? Then we can proceed with the proposing of an amendment that basically I think will be agreed to.

I want to record to note that I am not holding up the procedure here to try to help my colleagues go to a meeting that they would like to go to about mid-afternoon. I hope within the next 15 or 20 minutes we could go to the final passage vote on this, and we will have a vote on it.

Mr. President, I reluctantly suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ROCKEFELLER). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SIMON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DO NOT CLOSE THE DEFENSE LANGUAGE INSTITUTE

Mr. SIMON. Mr. President, I would like to just speak for a moment about something that I have heard may be a recommendation of the Base Closure Commission.

Each of us, whether from West Virginia, Kentucky, Ohio, Alaska, or Illinois, we are interested in our own States. And there were rumors about Great Lakes closing, which I hope are not true, and I do not think makes sense.

But let me speak about a closing that I heard of in another State that I do not think makes sense, and that is the Defense Language Institute.

It is very interesting that the Presiding Officer right now is, I am sure, the only Member of the U.S. Senate who can speak Japanese. And what an asset that is to him and, indirectly, to the Senate.

We need linguists. We have the only Foreign Service in the world that you can get into without the knowledge of a foreign language. It is incredible.

And in the area of defense languages and our security, we have the best facility in the world. For someone, through shortsightedness, to think that we can close that down and serve the Nation, it really is incredible, particularly since we have just gone through the process—we are not through it yet—of having troops in Somalia all of the sudden finding ourselves desperate for people who speak Somali.

What we need is clearly not to close this facility down, but, if anything, to strengthen it.

When I was in the House, Mr. President, I remember when the Secretary of Education, Ted Bell, who is a very fine person, recommended that we stop all international education as part of the Higher Education Act. I had an amendment to keep our funding there. And I remember two people contacting me in behalf of my amendment against another Cabinet member, the only time I have every experienced this in my years in Congress. Cap Weinberger and Bill Casey both contacted me and said it is important for the defense to America that we keep these capabilities.

And it is important not simply for the defense of America. These people who learn another language end up, often, when they are no longer in the service, going into business, selling Fords, Chevrolets, Plymouths, whatever.

And there is a very simple rule in business. You can buy in any language. But if you want to sell, you have to speak the language of your customer. One of the things that we do wrong is we have not learned to speak the languages of our customers.

But it is just as shortsighted as it can possibly be to consider closing this facility.

Mr. President, I ask unanimous consent to have printed in the RECORD the report of the Board of Visitors to the Defense Language Institute.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BOARD OF VISITORS, DEFENSE LANGUAGE INSTITUTE, FOREIGN LANGUAGE CENTER,
Presidio of Monterey, CA, October 27, 1992.

Memorandum for: Assistant Secretary of Defense (C3I) Commanding General, U.S. Army Training and Doctrine Command; Deputy Chief of Staff for Operations and Plans, HQ, Department of the Army; Commandant, Defense Language Institute, Foreign Language Center.

Subject: Annual Report of the Board of Visitors.

GENERAL

The Defense Language Institute Foreign Language Center (DLIFLC) Board of Visitors (BOV) convened its fifth meeting at the Defense Language Institute in Monterey, California on 29–30 September 1992. At Enclosure 1 is a listing of BOV members present and absent plus a listing of additional attendees and briefers. At Enclosure 2 is a copy of the agenda. At Enclosure 3 is a summary of the presentations. At Enclosure 4 is an expanded copies furnished list.

ACHIEVEMENTS

The DLIFLC continues to successfully fulfill its mission and in an exemplary manner. Once more, the BOV was impressed with the academic, curricular and technological achievements of DLIFLC under the command of COL. Donald C. Fischer, Jr., USA. Several things have contributed to this success including the use of teleconferencing, the emphasis on proficiency as an instructional goal, and the implementation of the Learner Focused Instructional Day (LFID).

The BOV particularly noted the following achievements at DLIFLC in 1992:

The integration of technology in language instruction, both at DLIFLC and at other locations via video teleconferencing.

The implementation of the Learner Focused Concept across the curriculum, especially through the extension of the instructional day by one hour.

The confirmed commitment of DLIFLC to attain a higher proficiency rate (80 percent at 2/2/2).

The ability to maintain a low academic attrition rate (10%) through improved instruction and increased motivation on the part of teachers and students.

The continued contacts with allied language institutions with an eye toward establishing DLIFLC as a leader in foreign language training.

The development of extensive foreign language courseware to support the Special Forces program.

The continued commitment of DLIFLC to professionalize its language programs by instituting a system of internal and external curriculum reviews.

The continued commitment of DLIFLC to support faculty professional development, both in pedagogy and content.

The establishment of a provisional academic department to offer courses in Eurasian language (Estonia, Tadjik, Ukrainian, Uzbek, etc).

The recognition by TRADOC that language training and the overall role of DLIFLC will have to reflect the turbulent changes throughout the world.

The active support provided by DLIFLC in the DOD War on Drugs Program to include DEA, Customs Service, and narcotics agents currently being trained in Thai and Spanish.

DLIFLC's continued efforts to improve the Defense Language Proficiency Tests (DLPT) and the Final Learning Objectives (FLO) tests.

The impressive success in the increased proficiency level of Arabic language students as a result of extending the course to 63 weeks.

The enormous energies of DLIFLC in promoting the New Personnel System (NPS).

The continued efforts by DLIFLC to reach out to linguists in the field after they leave DLIFLC as evidenced in the impressive growth in distance education support.

The BOV would like to pay a special tribute to Colonel Donald C. Fischer, Jr., the Commandant and Dr. Ray Clifford, the Provost, for their numerous positive contributions and the many academic achievements which have taken place at DLIFLC this past year. The BOV would like to especially recognize Colonel Fischer's central role during the last three years in promoting excellence and professionalism at DLIFLC. DLIFLC's world reputation as a first rate institute of language training is due in great measure to Colonel Fischer's impressive leadership.

FUTURE OF DLIFLC

The Board wishes to go on record to express concerns regarding the future of the Defense Language Institute Foreign Language Center. The precipitous cuts in the Slavic language programs and in certain other departments are a cause of real concern to the BOV and should be to the senior levels of DOD as well. We are far from the "End of History" predicted in Dr. Fukuyama's Time magazine article. The presumption that we have reached the end of global politics, military confrontation, or economic and commercial competition is short sighted. The total unpredictability of Operation Desert Shield/Desert Storm and the Arabic linguistic requirements needed proved that point. Also, the presumption that Europe would be "Whole and Free" and without serious regional problems when these cuts were directed has proven to be illusionary. The Balkans and related problems of integrating the newly independent republics of Central Europe into a broader European whole has also not proceeded as many predicted. Indeed, the need for language skills in the European context has increased and not declined. Additionally, while we may be moving away from a conflict to a cooperation model on a global scale, the need for linguistic skills is in no way diminished. In this new cooperative context the need for enhanced language skills increases as global interaction increases. Our goal of integrating the countries of Central and Eastern Europe argues for an increasing number of liaison, escort, and interpreters with the required linguistic skills. Additionally, the requirement for language trained personnel in the Army arena demands a continued production of Slavic language trained personnel, while the implementation of the conventional arms and related treaties will require personnel trained in a wider range of other European languages.

The BOV is concerned with what often appears to be a short-term view exhibited by developing DLIFLC requirements. There appears to be a lack of vision on the part of the end user in ensuring the availability of an adequate cadre of trained linguists. Clearly the message to the field is that requirements must be more clearly defined and reflected in a timely manner. What is needed is some vision at the senior levels regarding earlier identification of need. The operators in the field must become more proactive participants in the process and understand the impact of their requirements on the DLIFLC personnel and budget cycle. Requirements continue to lag far behind the actual needs.

The BOV also believes that the excellent work done at DLIFLC should be made better known to the OSD and Service entities involved in security assistance and related fields dealing with international issues. The BOV views DLIFLC as a national asset and continues to be disappointed that its role is not better understood and supported by elements within OSD and the respective Services.

COURSE DEVELOPMENT

Periodic reviews of courses by external committees consisting of major users have taken place. Specifically, curriculum reviews have been conducted in Arabic, Chinese, Korean and Russian, with Persian Farsi and Spanish to be accomplished in February 1993. These reviews are useful and necessary and the BOV encourages and supports the systematic reviews of other course offerings as well. Instructors should be provided with the time and resources in order to participate in more frequent curriculum reviews.

The BOV recommends an in-depth review and assessment of the Korean Language School. Attention should be focused on the Korean Language School's faculty, course content, academic loads placed on students, number and variety of texts, methodologies employed in the classroom, as well as the adequacy and currency of materials being used in the program. Steps should be taken to ensure that, while striving to achieve a 2/2/2 proficiency level in the three language skills, the faculty does not feel pressured to teach to the test.

The BOV notes the improvement in the speaking skill in some languages as reflected by the DLPT scores. The BOV strongly believes that the speaking skill is very important; indeed, it complements the assimilation of the other language skills. As our nation begins to move away from a position of possible conflict to one of probable cooperation, the acquired speaking skill will be an added asset in helping DLIFLC produce a graduate more useful to the national purpose who would be able to address the emerging needs projected by the current world political situation. The BOV looks for this language skill to be maximized in the teaching of all languages. The BOV urges the Commandant to stress to his departments and schools the importance of the speaking skill, even for those intelligence requirements where listening is the predominant skill. The adage "we hear well what we speak well" is sage advice in the efficient training of language students.

FACULTY DEVELOPMENT

Since last year's report, the hope to introduce a New Personnel System (NPS)—House of Representatives Bill 1685, introduced by the Honorable Leon E. Panetta—currently awaits only authorization by the U.S. Congress. There is a basis to believe that the new system will be in place at the beginning of 1993. Adding one GS–11 position per team would certainly boost morale at DLIFLC.

On the other hand, concerns over the recent and future reductions in force (RIF) have adversely affected faculty enthusiasm. Some 53 instructors were "RIFed" from the Russian language program on 28 September 1992 and apprehension exists that more cuts will follow. The "last in, first out" principle has had an unfortunate impact on junior, sometimes better qualified, faculty members. The qualifications factor, i.e., pedagogically trained versus native speakers, has weighted the number of the latter to the detriment of the former—with negative results. Many of these junior instructors had interacted with more empathy with their students and shown a keen interest in teaching students effectively. Furthermore, they also had been encouraged to seek advanced degrees on their own time.

Positions for foreign language instructors need to be reasonably anticipated for professional development to continue. Graduate work, publications in professional journals, and papers at conferences should receive more recognition at DLIFLC. The case of Russian comes to mind. The introduction of six new languages spoken in the Commonwealth of Independent States at short notice—is a plus for DLIFLC's flexibility.

TECHNOLOGY SUPPORT

The BOV was impressed by DLIFLC's rapidly expanding video teletraining (VTT) network which this year has provided over 4,000 hours of instruction in 20 languages to 18 receiving sites. Among new applications has been the Ukranian pilot program for the cross-training of Russian linguists at Fort Meade, Maryland. In its VTT system, DLIFLC has a tool remarkably suited to extending its outreach to a whole new community of users which includes Reserve Components and Civil Affairs/PSYOPS units nationwide whose language needs are not being fully met.

The BOV urges continued TRADOC and Department of the Army and Department of Defense support of this technical capability and urges TRADCC's use of this video teletraining technique as a model for developing new programs for operational training. Funding support for the Information and Modernization Plan continues to be a top priority, fully endorsed by the BOV. This plan provides for expanded use of computers for foreign language study.

ADMINISTRATION

During visits with selected students from various courses, BOV members were struck by the absence of negative remarks on non-curriculum matters such as military requirements, physical fitness training, non-productive time, and quality of life factors. The BOV could only conclude that the students were highly motivated toward their principal responsibility for learning a language, felt no adverse impact from non-curriculum related duties, and respected their military chain of command. A definite attitude of

military professionalism was evident throughout, which represented a difference from previous years in which the BOV was apprised of a variety of deterrents to the educational process that concerned the students at DLIFLC. The BOV recognizes that both the Commandant, the four Service Commanders and the dramatically improved communications between the Schools and Services have contributed to this very favorable condition. The results have been evident in reduced attrition rates, increased language proficiency and heightened morale.

The matter of Service "needs" and "requirements" was a subject of concern to the BOV. In view of its belief, as expressed earlier in this report, that the Services should be expanding their views of international relationships within the context of the new National Military Strategy. The BOV believes that the Services are not projecting the important language requirements needed for the type contingency forces being developed today. While recognizing that no one can predict where the next war will occur or which countries will require nurturing, the BOV urges the DOD, the Services, and the Commanders-in-Chiefs of the Unified Commands to forecast their "needs" for language trained personnel for any reasonable eventuality. These needs would be global in nature and not simply centered on the current threats, such as Southwest Asia and Korea. They would include the nations that comprise the former Soviet Union, Africa, South America, and Asia. The assessment of such "needs" would enable all of DOD to be better prepared to respond to emerging requirements whether they are conflict related or based on peacetime engagement "needs".

Once these "needs" have been identified, the Services should take the lead in converting them into "requirements", which then can be programmed and budgeted for in the annual DLIFLC budgets. The BOV believes that it is not necessary to have "requirements" based solely on manpower billets. On the contrary, many requirements should be justified on the basis of a possible "need," ranging from one to five years out. There then must be some flexibility in the assignment of personnel who graduate with language competency in these non-billet "requirements." Surely, there must be places in the world where military linguists can be of significant benefit to the Armed Forces and U.S. national interests.

The above observations are oriented primarily toward non-intelligence "needs" and more toward security assistance related opportunities that the United States should prepare for now as opposed to waiting for a crisis to occur, only to find out that it does not have sufficient trained linguists to meet field commanders' requirements. The obvious cases in point for Operation Just Cause, Operations Desert Shield/Storm, and the demise of the Soviet Union.

With the potential increase of requirements for linguists to meet the "cooperation" model and less to meet the "conflict" model, such requirements call for a demand on more officer linguists. These should be Foreign Area Officers (FAOs), who have a most difficult career pattern facing them when assigned to DLIFLC for language training. The BOV notes that the complexity of a FAO career prompts astute management. This is due to the language requirement, followed by a graduate degree, and then a utilization tour. Although the Army DCSOPS is the current stated proponent, the practical realities are that practical proponency at such a high level in the Army may be unworkable. It would seem that if TRADOC monitored the FAO proponent at one of its schools, career development patterns and training interests would be more carefully observed and nurtured. Such is the case for most specialties in the Army. The BOV believes that the Army should consider placing the FAO proponency with the Commandant, DLIFLC, with supervisory over-watch by DA/DCSOPS and assistance by the Commandant of the JFK Special Warfare Center and School (SWCS), who is another trainer of FAOs.

Another need involves Military Language Instructors (MLIs), who can generally relate better to Service requirements than civilian native speakers. Unfortunately, MLIs are inadequately represented on the faculty. The individual Services may have their reasons for being unable to support assigning officers to DLIFLC as MLIs, but the MLIs value to DLIFLC must be considered. The BOV believes that it is important to consider officers as faculty members. This adjunct to the NPS type of faculty would provide a significant enhancement to DLIFLC. It would meet the needs of the Armed Forces' expanding requirements in lanugage capabilities as expressed earlier in this report on the Future of DLIFLC. This move would provide a good rotational base for officers assigned to attache and security assistance posts overseas. Accordingly, the BOV urges the Executive Agent to study the feasibility/advisabilty of providing language trained officers on the DLIFLC faculty.

In keeping with the notion that the Services should broaden their interest in DLIFLC language training, the BOV is concerned that representation on the General Officer Steering Committee (GOSC) is proscribed to intelligence and training related positions. Absent from the GOSC is a representative of the "cooperative" requirement model or someone with security assistance and operational responsibilities. All Services should place such representation on the GOSC in order to respond to the increasing demand of language requirements for other than intelligence purposes.

The BOV was apprised of the language center supporting the Special Forces at the JFK Special Warfare Center and School (SWCS). While DLIFLC provides some degree of quality control over this language center, it appears to the BOV that an enhanced capability to service a much broader range of Special Operations Forces (SOF) needs is in order. Besides the Special Forces Operational Detachment (SFOD) (A), examples include positions at Civil Affairs units and PSYOPS units—both Active and Reserve Component. If a greater language capability were fostered at Fort Bragg to satisfy growing SOF needs, it would be far more advantageous for the U.S. Special Operations Command to request language support from the most experienced language training entity in DOD, namely DLIFLC, rather than administering such training programs itself.

If DLIFLC were to establish a DLIFLC "East" at Fort Bragg to service the growing SOF needs, it is conceivable that in the long run, efficiencies would be gained, opportunities would exist for easy and quick adoption of new language requirements for SOF, and other customers satisfied with their needs. The flexibility which DLIFLC could bring to bear on this requirement represents a cogent argument for DLIFLC to take over the current SWCS courses and build upon this language center at Fort Bragg.

The BOV was briefed on the ongoing efforts to secure a Presidio of Monterey (POM) Annex at Fort Ord to satisfy needs for housing, community activities, training facilities, and quality of life features. It is the strong view of the BOV that the Army should secure the POM Annex for DLIFLC in order to maintain the total viability of the DLIFLC establishment, which heretofore was shared by TRADOC (at DLIFLC) and FORSCOM (at Fort Ord). Early resolution of this matter in favor of the POM Annex is strongly endorsed by the BOV in order to secure a high degree of stability at DLIFLC for the foreseeable future.

In the event that a DLIFLC "East" is realized, a suggested above, and with the acquisition of a POM Annex, the BOV believes it would be in the interest of both the Army and DOD to justify the Commandant's position as that of a Brigadier General. Add to this responsibility of the Commandant the possibility of becoming the proponent for FAOs, and the argument for a General Officer billet takes on increased significance. Besides just the pure leadership and management responsibilities that would be undertaken by this Bridgadier General, the new position would represent an important career opportunity for young FAOs who someday might become the Commandant of DLIFLC.

The BOV has expressed its view earlier in this report that DLIFLC has a tremendous potential for impacting on U.S. national interests through the medium of its Armed Forces trained in many languages sufficient to serve throughout the world in peacetime and periods of conflict. This vision of DLIFLC is also held by the Commandant who has striven the past three years to achieve a higher level of importance for DLIFLC on the national scene. It is important that senior Defense officials, and senior Army civilian and military leaders in particular, recognize the importance of DLIFLC as a true national asset. To gain the support of senior Army leaders who would share this vision for the future would be a very strong impetus to the Commandant and the Staff and Faculty at DLIFLC to maintain an institution of language training rivaling the best which the Services maintain today. Command interest and involvement would have a salutary effect on all of DLIFLC.

The BOV recognizes that for the past three years the Commandant, Colonel Donald C. Fischer, Jr., has provided outstanding service to DLIFLC, to TRADCO, to the Army as the Executive Agent, and to the Department of Defense. His forthcoming retirement in early 1993 will create a significant loss in professional competence, leadership and management acumen, and vision. The BOV's concerns could only be mitigated if the proper replacement were provided by the Army. The BOV believes it is important to the Army, and to the Commanding General of TRADOC in particular, that the very best possible officer be brought in to replace Colonel Fischer. The BOV urges the TRADCO Commander to carefully review a list of candidates in making his decision on the next Commandant. The right person for this important position will have far reaching effects.

RECOMMENDATIONS

The BOV concluded its deliberations during the two-day meeting by making several recommendations. The BOV also notes with satisfaction that many of the recommendations made in last year's report have been either implemented or are on the verge of being implemented. The following recommendations also take into consideration last year's report:

That ASD (C3I) establish a DOD sponsored Task Force to determine language needs in support of national interests and the role of DLIFLC in the post-cold war era. These needs would cover as a minimum the following areas:

Intelligence positions;

Special Operations Forces;

Political-Military positions;

Peacetime engagement requirements; and

Exchange opportunities.

That the "Defense Planning Guidance" (DPG) reflect the need for DLIFLC and other federal language institutes to develop language study materials for the Baltic and Confederation of Independence States (BCIS) languages. It is imperative that language competence for this area of the world be developed.

That the "Defense Planning Guidance" (DPG) reflect language requirements for the Defense Attaché and Foreign Area Officer programs.

That the New Personnel System (NPS) legislation be pushed early in 1993, by inviting principal aides of congressmen/senators on respective Armed Services and Intelligence Committees to visit DLIFLC when the Congress is not in session. We are pleased to note that subsequently the NPS passed Congress and was signed by the President on 6 October 1992.

That a data bank be established to track junior faculty members who have been affected by the reduction in force. That when the hiring freeze has been lifted, priority be given up to recruitment of pedagogically trained faculty rather than native speakers (without such qualifications).

That once the budget has been stabilized, provisions be made for reinstating financial assistance to attend scholarly conferences, including hosting these at the Presidio of Monterey, inviting specialists from the outside to conduct faculty seminars, facilitating the publication of scholarly articles, and providing financial bonuses for high achievement to the "best teacher" in each school.

That to fill-in the gap that has been created by the RIF and to broaden the base of language trained officers, the Services be requested to assign DLIFLC qualified officer-linguists.

That top priority be given to reversing the precipitous decline from 1,343 to 725 Russian language students, by:

Publicizing opportunities for Reservists to receive resident language training;

Opening DLIFLC to non-government civilian students;

Encouraging all Services to send Special Forces, defense attaché, security assistance, potential peace-keeping, foreign affairs officers, On-site Inspection Agency personnel to DLIFLC; and

Supporting the establishment of DLIFLC as a government-wide center for language learning.

That the Services consider a new set of language needs in the non-intelligence or cooperation model and translate these needs into requirements for language personnel, primarily officers.

That the Army study the feasibility/advisability of transferring the proponency for the Foreign Area (FAO) Specialty (SC48) from DA DCSOPS to the Commandant, DLIFLC.

That the Services provide additional membership on the General Officer Steering Committee (GOSC) of individuals whose area of interest is in foreign relations and security assistance.

That the Army study the feasibility/advisability of establishing a DLIFLC "East" at Fort Bragg, North Carolina to satisfy the growing needs of the SOF community and other potential language requirements.

That the Army fully support the DLIFLC's efforts to secure the POM Annex from the Fort Ord complex to provide a complete institutional structure with its requisite support facilities.

That the senior leaders of the Army provide command interest and support to DLIFLC and its vision for the future.

That the TRADOC Commander carefully select a fully qualified replacement for the present Commandant upon his forthcoming retirement.

That faculty be provided with the necessary resources and time to carry out frequent curriculum reviews.

That the Korean language program be thoroughly reviewed with attention given to all of its integral parts: faculty, methodology, course content, and appropriateness and quantity of learning materials.

That greater emphasis be given to the speaking skill in intelligence course offerings.

That the 63-week course offering be expanded to include other category IV languages.

EMILE A NAKHLEH, Ph.D.,
Chairman.

THE 1992 BOARD OF VISITORS

MEMBERS IN ATTENDANCE

Dr. Emile A. Nakhleh (Chairman), Chairman, Department of Government and International Studies, Mount Saint Mary's College.

Dr. James E. Alatis (Vice Chairman), Dean, School of Languages and Linguistics, Georgetown University.

Ms. Ann Caracristi, President, Association of Former Intelligence Officers.

Mr. Jacques Paul Klein, Assistant for International Affairs, Office of the Secretary of the Air Force.

Mr. Robert W. Parr, Principal, Westborough Middle School.

Gen. William R. Richardson, USA (Ret.), Executive Vice President of Army Affairs, Burdeshaw Associates, Ltd.

Ambassador Richard F. Staar, Senior Fellow, Hoover Institute, Stanford University.

MEMBERS ABSENT

RADM George P. March, USN (Ret.).

Honorable Leon E. Panetta, Congressman, 16th California District.

ADDITIONAL ATTENDEES

Ms. Susan Schoeppler, Branch Chief, Combat Support Branch, Headquarters, Training and Doctrine Command.

Col. Ronald D. Thomas, Deputy Chief of Staffing for Training, Headquarters, Training and Doctrine Command.

Mr. Craig L. Wilson, Director, Intelligence Policy and Planning (C3I), Office of the Secretary of Defense.

DLIFLC COMMAND GROUP

Col. Donald C. Fischer, Jr., USA, Commandant.

Col. Ronald Bergquist, USAF, Assistant Commandant.

Dr. Ray T. Clifford, Provost.

DLIFLC BRIEFERS AND STAFF

Mr. Jerry Abeyta, Facilities Manager, Office of the School Secretary.

Dr. John Clark, Dean, Evaluation and Standardization.

Mr. John Estep, Senior Analyst, Resource Management Division.

Maj. Randolph Hill, USA, Chief, Plans and Scheduling Branch, Operations, Plans and Doctrine.

LDCR Linell McCray, USN, Law Enforcement Agency Coordinator, Operations, Plans and Doctrine.

Maj. John McGhee, USA, On-Site Inspection Agency Staff Officer.

Lt. Col. Edward Rozdal, USAF, Maj. Thomas R. Wood, USA, Mr. George Benigni, Special Operation Forces Project.

Lt. Col. Helen A. Brainerd, USAF, Dean of Students/Project Officer.

Ms. Pierrette Harter, Protocol Officer/Project Officer.

Mrs. Marilyn Mase, Recorder.

Mr. SIMON. Mr. President, I might add, this is a report that is not without its criticisms. They say there are ways that this can be improved.

But for the United States to take a step backward in this area, where we are already behind other countries—and I see the distinguished chairman of the Foreign Relations Committee on the floor. He has visited a lot of countries. You cannot visit another country where you do not find all the elementary school students studying another language.

So far as I know, there is only one country where all elementary school students do not study another language, and that is the United States of America. We ought to be taking a step forward.

It would be interesting to see, of the pages right in front of us, how many of them have studied a foreign language in school. We have four of them right here.

Three out of four have. In every other country, all 4 would have. And 3 out of 4 is about 50 percent better than we are doing nationally.

Mr. President, I do not ordinarily get up to speak about closing another base in another State. I guess we are all the same. We speak provincially. I want to keep Great Lakes going in Illinois. I want Scott Air Force Base to stay in Illinois.

But in this instance, I think the Nation clearly would be served in the wrong way if we were to close the Defense Language Institute.

Mr. PELL. Mr. President, I just wanted to congratulate the Senator from Illinois on his statement and say it is absolutely accurate, as far as I know.

The common view is that foreign diplomats usually know three or four languages or more. If you accept it as being a given, it is much easier to learn.

I remember being stationed once in Bratislava, Czechoslovakia. The young people there spoke Czech, spoke German, and spoke Hungarian. They were brought up with it. We do not have that advantage, but at least we can educate them in one more language than English.

That is why I agree with the Senator that we should not close this facility.

Mr. SIMON. Mr. President, I thank my distinguished colleague from Rhode Island.

Let me add one other little perspective. I remember when I was in the House holding hearings and having one of the hostages, who had been taken in Tehran, testify. He testified and said we had only a handful of the hostages—as I recall 6 of the 52 hostages—who spoke Farsi, the language of the people of Iran. His statement was, we were speaking to the elite in English, rather than understanding what was going on.

I think it is extremely important that we keep the language facilities that we have and strengthen them, rather than reduce them.

Mr. PELL. Mr. President, another point on the same subject, when I took the Foreign Service exam years ago, we had to know at least one other language. We have gone backward, not forward. It changed to not having another language from just a few years ago.

Mr. SIMON. I thank my colleague from Rhode Island.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. WOFFORD). Without objection, it is so ordered.

AUTHORIZING BIENNIAL EXPENDITURES BY THE COMMITTEES OF THE SENATE

The Senate continued with the consideration of the resolution.

Mr. FORD. I will yield the floor so the Senator from Rhode Island can offer an amendment.

The PRESIDING OFFICER. The Senator from Rhode Island.

AMENDMENT NO. 64

(Purpose: To clarify certain special reserves)

Mr. PELL. Mr. President, I send to the desk an amendment to increase the allowable surplus carryover for the Foreign Relations Committee from $266,009 to $355,823. The additional amount would be added to the majority account and would be without prejudice to any supplemental request that may be made at a later date pursuant to section 23(d) of Senate Resolution 71. I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Rhode Island [Mr. PELL] proposes an amendment numbered 64.

Mr. FORD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 35, strike line 11.

On page 36, between lines 5 and 6, insert "Foreign Relations ($355,823).".

Mr. FORD. Mr. President, we have reviewed this amendment, and there is an agreement between the chairman and ranking member. There is an agreement there, and the Senator from Alaska and I are agreeable to this, since it has been a contentious item. This will be the last item under the bill, and we can go to final passage. Therefore, the majority recommends we accept it.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. My understanding is an additional amount goes to the majority account, but there is an agreement we have all seen, which we would abide by, concerning the disposition of the funds. It has been agreed to by the Senator from North Carolina and the Senator from Rhode Island. The Senator from Kentucky and I have approved that agreement.

The PRESIDING OFFICER. Is there further debate?

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 64) was agreed to.

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SIMON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Illinois is recognized.

Mr. SIMON. I thank the Chair.

(The remarks of Mr. SIMON pertaining to the introduction of S. 456 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, there is no third reading on a resolution. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the resolution, as amended.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Alabama [Mr. SHELBY] is necessarily absent.

Mr. SIMPSON. I announce that the Senator from New Mexico [Mr. DOMENICI], the Senator from Alaska [Mr. MURKOWSKI], and the Senator from Virginia [Mr. WARNER] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced, yeas 94, nays 2, as follows:

[Rollcall Vote No. 20 Leg.]

YEAS—94

Akaka	Faircloth	Mathews
Baucus	Feingold	McCain
Bennett	Feinstein	McConnell
Biden	Ford	Metzenbaum
Bingaman	Glenn	Mikulski
Bond	Gorton	Mitchell
Boren	Graham	Moseley-Braun
Boxer	Gramm	Moynihan
Bradley	Grassley	Murray
Breaux	Gregg	Nickles
Brown	Harkin	Nunn
Bryan	Hatch	Packwood
Bumpers	Hatfield	Pell
Burns	Heflin	Pressler
Byrd	Hollings	Pryor
Campbell	Inouye	Reid
Chafee	Jeffords	Riegle
Coats	Johnston	Robb
Cochran	Kassebaum	Rockefeller
Cohen	Kempthorne	Roth
Conrad	Kennedy	Sarbanes
Coverdell	Kerrey	Sasser
Craig	Kerry	Simon
D'Amato	Kohl	Simpson
Danforth	Krueger	Specter
Daschle	Lautenberg	Stevens
DeConcini	Leahy	Thurmond
Dodd	Levin	Wallop
Dole	Lieberman	Wellstone
Dorgan	Lott	Wofford
Durenberger	Lugar	
Exon	Mack	

NAYS—2

Helms	Smith

NOT VOTING—4

Domenici	Shelby
Murkowski	Warner

So the resolution (S. Res. 71), as amended, was agreed to.

Mr. MITCHELL. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. FORD. Mr. President, let me take a moment to say I appreciate the confidence that was shown in the committee's work by the vote of my colleagues.

It is always distasteful to take a cut and to try to formulate what you will do the next 2 years as it relates to work in your committee.

So I know that some are not as happy as I would like for them to be, and I am not as happy with the cuts as I would like to be. But I do want everyone to know that I appreciate their cooperation and their work.

Nothing could be better than to work with Senator STEVENS. I wish to com-

pliment the Rules Committee majority and minority staff. Jim King and Chris and the others have done just a tremendous job.

I think we have set a precedent now that it can be done and we are willing to do it. With the tone of reduction that has been set not only by the President but our distinguished majority leader and the Speaker of the House in announcing reductions in the expense of operating the two Houses, the reduction of personnel over the next 4 years, I think that people can look at us now and, hopefully, with a great deal more confidence, see that we are setting the pace for what will be the future.

So again I thank my colleagues for the confidence. It was a vote of confidence for the committee as a whole and for the staff who worked so diligently to put this package together.

I thank the Chair.

Mr. MITCHELL. Mr. President, I commend the distinguished chairman of the Rules Committee and the ranking member of that committee for their diligent and effective work in dealing with the difficult question of committee funding.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WARNER. Mr. President, will the Senator yield?

Mr. HATFIELD. I am happy to yield.

Mr. WARNER. I wish to extend my apologies to the leadership of, and the management of, the committee. I was in the Intelligence Committee receiving a CIA briefing and simply did not have access to the bells. It is my error.

Had I been here, I would have been voting in the affirmative on the last vote.

Mr. MITCHELL. Mr. President, I thank the Senator and apologize.

What I will do in light of what the Senator has said is to request that the chairman of the Intelligence Committee establish a procedure to ensure that for members of the committee who are in meetings there be a mechanism for notifying them, because the Senator obviously was doing important work and should have been notified in time. I regret very much that that occurred.

Mr. WARNER. Mr. President, I thank the leader for his expression of sentiments. We tried very carefully to do that. But there is one space where the system does not work. I will see that it works hereafter.

I wish to commend the manager and the ranking member.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent there now be a period for morning business with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I am about to propound a unanimous-consent request which has been cleared with the Republican leader.

I ask unanimous consent that the Senate proceed to the consideration of S. 382, a bill to extend the emergency unemployment compensation program on Tuesday, March 2 at 11 a.m., and that, on Tuesday, the time from 11 a.m. until 12:30 p.m. be for debate only on the bill with no amendment or motions in order during that period.

The PRESIDING OFFICER. Is there objection?

Mr. HATFIELD. Mr. President, as the majority leader indicated, that matter has been cleared on our side.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. I thank my colleagues.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. HATFIELD. I thank the Chair.

(The remarks of Mr. HATFIELD pertaining to the introduction of S. 455 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

COMMEMORATING NATIONAL FFA WEEK

Mr. BURNS. Mr. President, this week I would like to join with the thousands of young men and women across America who are celebrating National FFA week. This year's theme, "FFA—The Spirit of Leadership", truly captures what the FFA is all about—building the leaders of tomorrow today.

Agriculture has always been the backbone of this country. Yet for many Americans, their view of how food gets to the table consists of a quick stop at the local grocery store. Few take the time to think of the good old-fashioned grit and determination it took American farmers and ranchers to put food on the store shelf. But it is this incredibly successful agriculture system that has allowed America to concentrate on the task of becoming the greatest nation in the world.

In spite of these achievements, there are always new obstacles facing the agriculture industry. Fortunately for America, FFA is working diligently to prepare the next generation of farmers and ranchers to meet these challenges. As a former member, I am proud to say that FFA has consistantly provided America's young men and women the educational background needed to ensure the future success of America's agriculture industry.

But FFA teaches more than just agriculture. It provides more than 400,000 members with a blend of personal, academic, and career development opportunities. Members learn through experience, applying what they've learned to real world situations. FFA gives young Americans the tools they need to become the leading citizens of this great Nation.

On Tuesday I met with several FFA national officers and talked about an outstanding bunch of young Americans. I look forward to an increasingly prosperous America as FFA members take on the challenge of leadership in the coming years. By practicing their motto: "Learning to Do, Doing to Learn, Earning to Live, Living to Serve." FFA truly embodies the American spirit.

The PRESIDING OFFICER (Mr WELLSTONE). The Senator from Pennsylvania is recognized.

Mr. WOFFORD. I thank the Chair.

(The remarks of Mr. WOFFORD pertaining to the introduction of S. 456 are located in today's RECORD under "Statements on introduced Bills and Joint Resolutions.")

Mr. WOFFORD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, first, are we in morning business?

The PRESIDING OFFICER. That is correct. The Senate is presently in morning business. The Senator may proceed.

HUMANITARIAN AID TO BOSNIA AND HERZEGOVINA

Mr. DOLE. Mr. President, first, let me indicate my support for the statement of the President this afternoon on humanitarian aid to those who live in Bosnia and Herzegovina. I think the President is correct and I said so before and I say so again today. There are literally thousands, thousands of people who are at risk due to hunger and exposure. It seems to me this is the right step. It is a small step but it is the right step.

I certainly wish those Americans who will be involved in this effort great success because it is solely for humanitarian purposes only. There is no military edge to it at all. It is a humanitarian gesture. I applaud the President for his effort in that regard.

THE PHARMACEUTICAL INDUSTRY

Mr. DOLE. Mr. President, it seems that every so often, the media and some in this town have a need to find a scapegoat in the business community on whom they can pin some blame.

A few years back it was the oil industry. Before that, it was America's coal

companies. Over the past few weeks, however, these folks have now turned the spotlight of scrutiny on America's pharmaceutical industry.

What appears to be the industry's biggest mistake is that it is guilty of making a profit and to some that is not appropriate.

The White House has jumped on the pharmaceutical-bashing bandwagon, hinting that action may be imminent, including slapping arbitrary price controls on prescriptions.

Having said that, do not get me wrong. Even pharmaceutical industry leaders admit that the industry can do more in helping bring down the cost of health care and bring down the cost of prescriptions, and they should.

But before we declare this industry public enemy No. 1, I would like to state just a few facts.

First and foremost, the industry saves lives. If you think we could do without the industry, then think back to the not-so-distant past, when diseases like polio, small pox, and other contagious diseases ravished communities across America. Even a simple infection was a common cause of death.

In recent years, the pharmaceutical industry has also made great strides in achieving cures and treatments for various serious diseases, including cancer.

As my colleagues know, I had a little experience with prostate cancer not long ago. I was one of the fortunate ones to have had my condition detected early, and I did not require drug treatment.

But since then, I have spoken with many prostate cancer victims who are not as fortunate and I have spoken to many of their doctors. I know the difference that drug treatments have made in holding cancer at bay and in lengthening lives, in this case for men, but the same could go for women and children.

Let me make it clear, manufacturing pharmaceuticals is not easy work. Indeed, it has been estimated that for every 5,000 drugs that are chemically synthesized, only one makes it to the marketplace; 5,000 in 1, at least that is the estimate.

So, if you want to reduce drug research, if you want to hinder the search for a vaccine for AIDS or a cure for Alzheimer's disease, then feel free to attack America's pharmaceuticals.

Less important to saving lives, but not to be underestimated, is the fact that pharmaceutical industry is one of the few bright spots on our economic horizon.

It is the world leader in the field, and it consistently posts a trade surplus. According to Investor's Business Daily, the industry added 37,000 Americans to the payroll during this past decade. And these were the kind of high-pay, high-tech jobs President Clinton says he wants for America.

Given the facts I have mentioned, it is no wonder that Merck Corp. was recently named by a Fortune magazine poll of business leaders as America's most admired corporation—it was the seventh year in a row that Merck received this honor.

If the administration truly wants to find a scapegoat for the high costs of vaccines, then they might want to look at the American Trial Lawyers Association, and the skyrocketing economic and human costs of our products liability system. Try as we may, we cannot pass product liability reform in this Senate. Hopefully, it will be changed this year, but I doubt it.

So I suggest the pharmaceutical industry is not perfect. Some have been guilty of mistakes and egregious price gouging. These matters should be corrected by the industry itself. If not, then we would expect Government to respond.

But before we all buy tickets on the pharmaceutical bashing bandwagon, we need to look at what this ticket would truly cost America. So it is like any other industry, it is like any government agency, it is like the Congress of the United States: It is not perfect, mistakes are made but in this case, I believe many, many Americans are thankful that we have the most advanced pharmaceutical industry in the world in the United States of America.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. EXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EXON. Could the Senator inquire of the Chair as to whether or not we are now in morning business.

The PRESIDING OFFICER. That is correct.

(The remarks of Mr. EXON pertaining to the introduction of S. 457 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. EXON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MITCHELL. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I have a series of unanimous-consent requests which, I am authorized to state, have been cleared by the Republican leader in prior discussions with Senator DOLE.

RECORD TO REMAIN OPEN

Mr. MITCHELL. Mr. President, I ask unanimous consent that the RECORD remain open until 4 p.m. today for the introduction of legislation and statements.

The PRESIDING OFFICER. Without objection, it is so ordered.

FILING OF LEGISLATION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Rules Committee have until 5 p.m. today to file reported legislation relating to the motor-voter bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

ACTIONS BY PRESIDENT CLINTON

Mr. MITCHELL. Mr. President, I would like to make comments on two actions today by President Clinton which I believe are significant and worthy of comment.

Although the President has made clear his intention to focus on our economic needs and is doing so in a manner that has gained the approval of larger majorities of Americans, there will be other issues relating to foreign affairs that will require action by the President. That is true of any President in a modern era given the position of the United States in the world.

Today, the President announced the approval of the airdropping of humanitarian assistance to persons in danger of starvation in the former Yugoslavia. I commend the President for this action. Along with a bipartisan group of Senators, I visited the former Yugoslavia in August. I met with the Presidents of Croatia and Bosnia and Herzegovina, with the then Prime Minister of Serbia, and a whole host of other officials. Upon our return, all of the Senators—as I said, it was a bipartisan group—wrote to the then Secretary of State urging certain actions upon the administration.

The steps being taken by President Clinton and other governments now are a welcome step in the direction of more active participation to ease the suffering and halt the slaughter and atrocities in that region.

There have been many, particularly in the press, who suggest that any action must necessarily involve American ground troops. I do not share that view. Indeed, in my most recent meeting with the President of Bosnia and Herzegovina, President Izetbegovic, in response to my specific question on that subject, stated that they did not want American ground troops in the region. They were not asking for American ground troops.

Therefore, we must understand that this is not a choice between doing nothing on the one hand, or inserting hundreds of thousands of American

ground troops on the other hand. It was that false choice, the assumption that only those two alternatives were available, which has for so long paralyzed Western policy and not permitted actions between those two options, which I believe are appropriate, should be taken, and will be of invaluable assistance.

The action announced by President Clinton today is one such step. I believe there are many others. Most notable among them is the establishment of the war crimes tribunal by the United Nations just this past week, an action which I and other Senators urged as long ago as last summer, as well as a drastic tightening of the economic embargo against Serbia, which I believe, if rigidly and strictly enforced, would cause a significant change in policy and perhaps a change in government in that country.

So I commend President Clinton, and I restate the view I have expressed many times—that what has occurred in Bosnia and Herzegovina must be stopped; that there is a responsibility on the part of all Western nations to take action to stop it; that there are many actions which can be taken, short of the insertion of hundreds of thousands of ground troops that can and should be taken; and this action by President Clinton is a welcome step in the right direction.

Finally, the Clinton administration announced a forthcoming summit meeting with President Yeltsin of Russia on April 4 at a location to be determined and announced. I think that is an important step as well. The American people have an interest in seeing to it that democracy, and the institutions and the practices and the attitudes of democracy, take hold in the former Soviet Union. We have a stake in seeing to it that the people of that country, under the stress of economic hardship, do not revert to a totalitarian regime, do not succumb to the siren call of dictators, but rather, notwithstanding the difficulties they are now understandably experiencing as they make the very painful transition from a state-controlled economy to a free-market economy, from a totalitarian society to a free society, that they stay the course and that they know that the American people and the U.S. Government is supportive.

The meeting by President Clinton with President Yeltsin at an early time will help to convey that message in the most tangible way and will convey to the people of that country that the United States stands firmly in support of those policies of democratization.

This is not a case of American policy being pinned to one person. That, I think, has been, is, and would be a mistake. We do not support people; we support freedom. We support those who favor freedom. We support those who push for and fight for and encourage freedom, because America does well where freedom does well.

Therefore, I believe it is an appropriate action, one for which I strongly commend President Clinton, and which I hope sends the right and meaningful signal to people not only in Russia, but in all of the former Republics of the Soviet Union, many of whom are now experiencing similar difficulties.

Mr. WARNER. Mr. President, will the distinguished majority leader accept a question?

Mr. MITCHELL. Certainly.

Mr. WARNER. I listened carefully as the distinguished majority leader addressed the proposed air drop initiated by the President.

Mr. President, I say this with great respect to the majority leader. As he knows, through the many months that this problem in the former State of Yugoslavia has existed, I have been on the side which has advocated the greatest of caution. And the distinguished leader and I, and other Members, from time to time have had an opportunity to discuss on this floor those issues. I have pleaded with the chairman of the Armed Services Committee to have the Pentagon advise the Senate, and I understand finally that is going to be done here late this afternoon. I thank the chairman and the leader for that.

But my concern is severalfold. I have concern about the military operation. I took strong issue with our distinguished President when he said that sending airplanes to perform this drop "has no military connotation." Whenever we send a U.S. military aircraft with U.S. markings into an area of hostility, that has a military connotation.

Like the distinguished leader, I took it upon myself to visit the former State of Yugoslavia in September, and that included going to the airfield at Sarajevo and witnessing the indiscriminate firing by both sides. The point I wish to add to the distinguished leader—and this is not done in a political or partisan sense—but President Reagan and President Bush, from time to time, consulted with the Congress, particularly the leadership and those chairmen and ranking members of those Committees on Armed Services and Intelligence, before a number of operations. As the Senator will remember, an example is when we joined together several times in the Cabinet Room prior to Operation Desert Storm, although the distinguished leader and I were on different sides of that issue. Nevertheless, the President, I felt, clearly consulted with the Congress.

My question: Has there been any consultation with respect to the air drop with the leadership of the Senate, or other Members, of a formal nature?

Mr. MITCHELL. Mr. President, I will be pleased to respond to the Senator, and I take his question absolutely in the spirit in which he offers it. I know the Senator well and have the greatest regard and respect and friendship for him. I am well aware of his concerns, which we all share about what this will lead to and what the outcome will be.

Following the general election in November, I participated in a series of meetings with then President-elect Clinton—I am speaking from memory—and on two occasions, he asked for my views with respect to the situation in the former Yugoslavia. I conveyed those views to him in much the same way that I have done so here, although I referred more specifically then to the steps that I and other Senators had recommended in the bipartisan fashion, which I earlier described.

I have since had discussions with members of the President's staff, and on this week, spoke by telephone with the President's National Security Adviser regarding the proposed air drop that is to occur today. I have not personally talked to the President this week about the subject, but did have full consultation with the President's National Security Adviser this week; and I am confident that, had I chosen to do so, I would have been able to discuss it with the President personally.

Mr. WARNER. In the past, President Bush did it on a bipartisan basis. To my knowledge, our Republican leader has not discussed it, and certainly he has not mentioned it to me. I am no longer ranking on Armed Services, but Senator THURMOND is, and I am not knowledgeable of any consultation with him. I am ranking on Intelligence, and normally it is the Armed Services and Intelligence Committees that have been involved in the consultation process.

I wonder to what extent both sides have been consulted on this very important issue.

Mr. MITCHELL. Mr. President, I have no knowledge of that. I do not want to debate the issue now.

But there were many occasions on which the previous President took action on which I was not consulted. There was a great deal of discussion on the Desert Storm matter, and I think even that bears some further elaboration which I will do, not in a desire to dispute what the Senator has said but merely so that there can be a full record.

The Senator will well recall that in late October of 19—I am trying to get the year straight now when we were involved with the invasion by Iraq.

Mr. WARNER. 1990.

Mr. MITCHELL. 1990. It occurred on August 1, 1990.

Mr. WARNER. Yes.

Mr. MITCHELL. There ensued a series of meeting in which the Senator and I participated. In late October of that year, one of those meetings occurred in which there were perhaps 15 or 20 Members of Congress. It was bipartisan. Each of us was asked to state our views to the President. Usually

each respecting the President did so in a couple minutes, and there followed a general discussion.

I was very concerned to learn later after election day that prior to that meeting the President had made the decision to substantially increase the number of American troops being sent to the gulf, significantly changing the character of the American presence there but that none of us at the meeting had been notified of the decision even though the decision had previously been made; that is to say, nobody said to us at the meeting: We are thinking about, we are considering or we have decided to make this major change. What do you think about that?

Rather, we were merely asked what was our opinion on the general subject. And we expressed our opinion unaware of, at least I was unaware of, the very significant change that had occurred.

I intend no criticism of that. I merely think the record ought to reflect that. We had a lot of meetings at which we were asked to give our opinion. That is not the same thing as being fully informed on what plans are underway and being asked to comment on those plans.

That in no way should preclude or encourage the current administration not to engage in full bipartisan consultation, and frankly what I think of as consultation is to say to my friend, Senator WARNER, here is what we are thinking about doing. What is your reaction to it? That is consultation, I think.

Mr. WARNER. Mr. President, I agree precisely with that. Rather than going over the historical record, I ask my distinguished leader: Does he not believe that that is in the best interest of our country, particularly when we are about to put at risk men and women of the Armed Forces?

Mr. MITCHELL. Yes.

Mr. WARNER. That there be the maximum consultation that can be achieved prior thereto so that the views of the leadership of the Congress can be taken into consideration hopefully as he says prior to any final decision?

Mr. MITCHELL. Yes.

Mr. WARNER. I find that notably lacking in this process as respects the air drop. This Senator has severe concerns as to really, first, the military viability of achieving the end result at this high altitude, but we will go into those details momentarily with the members of the Joint Chiefs of Staff that are now waiting to brief us.

Second, I would like to have the opportunity to express my views after receiving some basic knowledge of what is taking place. Then if the President made the decision, I say to the leader and Members of the Senate, I would support the President. I do not want to sit on the sidelines and carp and snipe. If he made a decision I will fall in and back it once the men and women are committed in the action.

I take umbrage that there has been no consultation, albeit the prior President did not do it exactly the way the leader wanted it done, and it has not been done in this instance. I dispute with the President—there is a military connotation to the operation to the extent I understand it based on the facts that we learned only through the media.

Mr. MITCHELL. Mr. President, if I might respond to the Senator, first, I agree fully that to the extent possible there should be full consultation with both Houses of Congress and with the leadership of both political parties. I believe so for several reasons. First, there is a great deal of knowledge, expertise, and good judgment among many of the Members, and I think everyone learns through consultation. I have never learned anything in my life while I was speaking.

Mr. WARNER. Correct.

Mr. MITCHELL. I have learned a great deal in my life while listening to others speak. And I think that the possibility of getting a better policy by consultation is significant and real.

Second, even if one does not get a better idea, even if one engages in a process of consultation, and comes out of it convinced that the original plan should not be changed in any respect, the likelihood of gaining support for that plan increases in direct proportion to the degree of consultation and I mean genuine consultation and listening to one's point of view.

Mr. WARNER. The leader is correct in that point, and I concur.

Mr. MITCHELL. Therefore, I say to my colleague I have no knowledge other than what I have stated with respect to my own circumstance in this case. But I will strongly encourage the administration and the President, who I know wants to consult, wants to cooperate, and in fact I believe on this coming Tuesday will take what I think is the unprecedented step of a Democratic President attending a caucus of Republican Senators on Tuesday, and I believe tomorrow Republican Senators are holding a conference and Mrs. Clinton will be attending it since the subject is health care.

Mr. WARNER. Mr. President, the Senator is correct on that.

Mr. MITCHELL. I think those demonstrate the extent to which the President wants to consult, wants to get the views of our Republican colleagues, and I will strongly encourage that become a regular practice by the administration.

Mr. WARNER. Mr. President, I thank our distinguished leader.

I will take a few more minutes, and I will not ask for the Senate to be detained, about my views of the air drop to the extent I know them, and then I will join the distinguished Senator from Arkansas on a separate matter. But I thank the leader for this opportunity, and I propose to continue, unless the leader has further comments.

Mr. MITCHELL. I have no objection to that.

Might I inquire of the Senator from Arkansas and the Senator from California whether they wish to address the Senate at this time?

Mrs. BOXER. I do not.

Mr. BUMPERS. Mr. President, the answer to the leader's question is, yes. I need about 5 minutes, and I think perhaps the Senator from Virginia needs 5 minutes. We are about to drop a couple bills in and we want about 5 minutes to describe them. Then if the leader wants to he can put in the order that the minute both of us have spoken the order for adjournment.

Mr. MITCHELL. I thank our colleague.

Is the time limit acceptable to the Senator from Virginia?

Mr. WARNER. If the distinguished leader will limit it to the discretion of the two of us, not to exceed 4:30.

Mr. MITCHELL. Mr. President, that is fine.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I ask unanimous consent that Senator WARNER and Senator BUMPERS be recognized to address the Senate for no longer a period of time than exceeds 23 minutes or goes beyond 4:30 p.m. and that upon the completion of their remarks the Senate stand in recess as ordered.

The PRESIDING OFFICER (Mr. ROBB). Without objection, it is ordered.

Mr. MITCHELL. I thank the Senator.

Mr. WARNER. I thank the distinguished leader.

The PRESIDING OFFICER. Under the previous order, the Chair recognizes the senior Senator from Virginia [Mr. WARNER].

THE AIRDROP

Mr. WARNER. Mr. President, I would like to discuss in a few minutes, and then we will turn to the other subject, the proposal of the airdrop of supplies.

It is a very interesting operation from a military perspective, a political perspective, and a humanitarian perspective. Every Member of this Chamber and, indeed, the vast majority of Americans wants to do everything we can to help those people in the former State of Yugoslavia, be they Moslem, whatever religious background, Croatian, Moslem, Serbian, or otherwise. The suffering is totally intolerable. It is almost without parallel. Someone pointed out not since the time of Genghis Kahn have we seen such indiscriminate acts of man against man and woman against woman as we are now witnessing in this troubled country.

The political and military dilemma facing the West and other nations that want to help again is without parallel.

That is why I was so hopeful that our President, if in fact he is going to take this step, and I am still waiting for confirmation and will receive the briefing shortly, if it in fact takes place, there would have been more consultation with the Congress. But that is behind us now. We are where we are. These airdrops, to the extent I have knowledge, are most unusual to take place at these high altitudes. Usually our forces train in such a manner as to drop so that there is some measure of ground control, primarily to see that the items dropped get into the hands of the proper receivers.

Now, in this instance, I heard the President is anxious just for them to drop into the hands of anyone who needs food, and that is unusual and it may be the correct position.

But again, the American people should be forewarned and explained to in great detail how our forces have been trained to conduct this operation, what are the risks to the men and women of the Armed Forces carrying it out. And, if we have the misfortune that one or more are lost, what are the measures by which we can go in and, hopefully, provide for their safety and, hopefully, for their return.

How do we know that these planes will not be fired upon by the Moslem forces, the Bosnian forces? In my brief visit into the city of Sarajevo, there was total indiscriminate firing from all sides at all targets. And the U.N. commander who accompanied me at that time, a French Marine colonel, said that each day the peacekeeping troops take certain risks and we do not know who is firing at whom, nor for what purpose.

And that same scenario is duplicated many times all throughout the battle zones in the former State of Yugoslavia, both in Croatia and in Bosnia and elsewhere. We do not have any ground control, so far as I know.

Therefore, it is a high-risk operation in terms of success. It is high-risk by virtue of the altitude.

Now, understandably, we want to accord the maximum protection to our aviators, and I can appreciate that. And perhaps we will get further details on the drop zones and the likelihood that they can reach the targets that are desired.

But these are the types of details that I think, Mr. President, are important that the President of the United States—if not the President, those in the Pentagon directly responsible—should provide for the American people, so once this operation commences, if it does, then we fully understand all the risks, all the parameters to the extent there is no compromise to military security on intelligence on this matter.

It is still unclear to this Senator exactly how it was coordinated with the United Nations. And what was the reaction of other nations? Are other nations to participate?

I believed all along that this type of operation should be a joint operation with other nations. And the degree it is a joint operation is unknown to this Senator, and I think many others.

The PRESIDING OFFICER. The Senator from Virginia still has the floor.

Mr. WARNER. I thank the Chair.

(The remarks of Mr. WARNER and Mr. BUMPERS pertaining to the introduction of S. 462 and S. 463 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

APPOINTMENT BY THE REPUBLICAN LEADER

The PRESIDING OFFICER. The Chair, on behalf of the Republican leader, pursuant to Public Law 102-392, announces his appointment of the Senator from Alaska [Mr. STEVENS] to the Commission on the Bicentennial of the United States Capitol.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCathran, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

NATIONAL ENDOWMENT FOR DEMOCRACY 1992 ANNUAL REPORT—MESSAGE FROM THE PRESIDENT—PM 6

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Foreign Relations:

To the Congress of the United States:

Pursuant to the provisions of section 504(h) of Public Law 98-164, as amended (22 U.S.C. 4413(i)), I transmit herewith the Ninth Annual Report of the National Endowment for Democracy, which covers fiscal year 1992.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *February 25, 1993.*

ANNUAL REPORT OF THE SECRETARY OF LABOR UNDER THE FEDERAL MINE SAFETY AND HEALTH ACT OF 1977—MESSAGE FROM THE PRESIDENT—PM 7

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Labor and Human Resources:

To the Congress of the United States:

In accordance with Section 511(a) of the Federal Coal Mine Health and Safety Act of 1969, as amended ("the Act"), 30 U.S.C. 958(a), I transmit herewith the annual report on mine safety and health activities for fiscal years 1990 and 1991. This report was prepared by, and covers activities occurring exclusively during, the previous Administration. The enclosed report does not necessarily reflect the policies or priorities of the current Administration. Indeed, under the Act, these reports should have been submitted long before the change of Administration.

This Administration is committed to working with the Congress to ensure vigorous enforcement of existing mine safety and health standards. We are also intent on improving these rules where necessary and appropriate to better protect worker health and safety.

The 1992 Mine Safety and Health Administration (MSHA) annual report is due in May 1993. This report will identify strengths *and* deficiencies in MSHA's performance during the previous Administration and discuss steps the new Administration intends to take to ensure the agency is adequately protecting mine worker safety and health.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *February 25, 1993.*

PRESIDENTIAL APPROVALS

A message from the President of the United States announced that he had signed the following bills and joint resolutions:

On September 30, 1992:

S. 680. An act to amend the International Travel Act of 1961 to assist in the growth of international travel and tourism in the United States, and for other purposes;

S. 1607. An act to provide for the settlement of the water rights claims of the Northern Cheyenne Tribe, and for other purposes; and

S.J. Res. 337. Joint resolution designating September 18, 1992, as "National POW/MIA Recognition Day", and authorizing display of the National League of Families POW/MIA flag.

On October 5, 1992:

S. 1731. An act to set forth the policy of the United States with respect to Hong Kong, and for other purposes; and

S. 3175. An act to improve the administrative provisions and make technical corrections in the National and Community Service Act of 1990.

On October 6, 1992:

S. 1766. An act to add to the area in which the Capitol Police have law enforcement authority, and for other purposes; and

S.J. Res. 23. Joint resolution to consent to certain amendments enacted by the legislature of the State of Hawaii to the Hawaiian Homes Commission Act, 1920.

On October 9, 1992:

S. 1216. An act to provide for the adjustment of status under the Immigration and Nationality Act of certain nationals of the People's Republic of China unless conditions permit their return in safety to that foreign state; and

S. 2344. An act to improve the provision of health care and other services to veterans by the Department of Veterans Affairs, and for other purposes.

On October 14, 1992:

S. 3195. An act to require the Secretary of the Treasury to mint coins in commemoration of the 50th Anniversary of the United States' involvement in World War II; and

S.J. Res. 287. Joint resolution to designate the week of October 4, 1992, through October 10, 1992, as "Mental Illness Awareness Week".

On October 16, 1992:

S. 1880. An act to amend the District of Columbia Spouse Equity Act of 1988;

S. 3007. An act to authorize financial assistance for the construction and maintenance of the Mary McLeod Bethune Memorial Fine Arts Center;

S.J. Res. 305. Joint resolution to designate October 1992 as "Polish-American Heritage Month"; and

S.J. Res. 319. Joint Resolution to designate the second Sunday in October of 1992 as "National Children's Day".

On October 23, 1992:

S. 1146. An act to establish a national advanced technician training program, utilizing the resources of the Nation's two-year associate-degree-granting colleges to expand the pool of skilled technicians in strategic advanced-technology fields, to increase the productivity of the Nation's industries, and to improve the competitiveness of the United States in international trade, and for other purposes;

S. 1181. An act for the relief of Christy Carl Hallien of Arlington, Texas;

S. 1530. An act to authorize the integration of employment, training, and related services provided by Indian tribal governments;

S. 2625. An act to designate the United States courthouse being constructed at 400 Cooper Street in Camden, New Jersey, as the "Mitchell H. Cohen United States Courthouse";

S. 2661. An act to authorize the striking of a medal commemorating the 250th anniversary of the founding of the American Philosophical Society and the birth of Thomas Jefferson;

S. 2834. An act to designate the United States Post Office Building located at 100 Main Street, Milsboro, Delaware, as the "John J. Williams Post Office Building";

S.J. Res. 166. Joint resolution designating the week of October 4 through 10, 1992, as "National Customer Service Week";

S.J. Res. 218. Joint resolution designating the calendar year, 1993, as the "Year of American Craft: A Celebration of the Creative Work of the Hand"; and

S.J. Res. 252. Joint resolution designating the week of April 18 through 24, 1993, as "National Credit Education Week".

On October 24, 1992:

S. 1145. An act to amend the Ethics in Government Act of 1978 to remove the limitation on the authorization of appropriations for the Office of Government Ethics;

S. 1577. An act to amend the Alzheimer's Disease and Related Dementias Service Research Act of 1986 to reauthorize the Act, and for other purposes;

S. 1583. An act to increase the safety to humans and the environment from the transportation by pipeline of natural gas and hazardous liquids, and for other purposes;

S. 2201. An act to authorize the admission to the United States of certain scientists of the independent states of the former Soviet Union and the Baltic states as employment-based immigrants under the Immigration and Nationality Act;

S. 2322. An act to amend title 38, United States Code, to increase, effective as of December 1, 1992, the rates of disability compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for survivors of such veterans;

S. 2532. An act to support freedom and open markets in the independent states of the former Soviet Union, and for other purposes.

S. 2875. An act to amend the National School Lunch Act and the Child Nutrition Act of 1966 to better assist children in homeless shelters, to enhance competition among infant formula manufacturers and to reduce the per unit costs of infant formula for the special supplemental food program for women, infants, and children (WIC), and for other purposes;

S. 3224. An act to designate the United States Courthouse to be constructed in Fargo, North Dakota, as the "Quentin N. Burdick United States Courthouse";

S. 3279. An act to extend the authorization of use of official mail in the location and recovery of missing children, and for other purposes;

S. 3312. An act entitled the "Cancer Registries Amendment Act";

S.J. Res. 304. Joint resolution designating January 3, 1993, through January 9, 1993, as "National Law Enforcement Training Week";

S.J. Res. 309. Joint resolution designating the week beginning November 8, 1992, as "National Women Veterans Recognition Week"; and

S.J. Res. 318. Joint resolution designating November 13, 1992, as "Vietnam Veterans Memorial 10th Anniversary Day".

On October 25, 1992:

S. 1002. An act to impose a criminal penalty for flight to avoid payment of arrearages in child support.

On October 26, 1992:

S. 2044. An act to assist Native Americans in assuring the survival and continuing vitality of their languages;

S. 2890. An act to provide for the establishment of the Brown v. Board of Education National Historic Site in the State of Kansas, and for other purposes; and

S. 3006. An act to provide for the expeditious disclosure of records relevant to the assassination of President John F. Kennedy.

On October 27, 1992:

S. 225. An act to expand the boundaries of the Fredericksburg and Spotsylvania County Battlefields Memorial National Military Park, Virginia;

S. 759. An act to amend certain trademark laws to clarify that States, instrumentalities of States, and officers and employees of States acting in their official capacity, are subject to suit in Federal court by any person for infringement of trademarks, and that all the remedies can be obtained in such suit that can be obtained in a suit against a private entity;

S. 1664. An act to establish the Keweenaw National Historical Park, and for other purposes;

S. 2964. An act granting the consent of the Congress to a supplemental compact or agreement between the Commonwealth of Pennsylvania and the States of New Jersey concerning the Delaware River Port Authority; and

S. 3134. An act to expand the production and distribution of educational and instructional video programming and supporting educational materials for preschool and elementary school children as a tool to improve school readiness, to develop and distribute educational and instructional video programming and support materials for parents, child care providers, and educators of young children, to expand services provided by Head Start programs, and for other purposes.

On October 28, 1992:

S. 347. An act to amend the Defense Production Act of 1950 to revitalize the defense industrial base of the United States, and for other purposes;

S. 474. An act to prohibit sports gambling under State law, and for other purposes;

S. 758. An act to clarify that States, instrumentalities of States, and officers and employees of States acting in their official capacity, are subject to suit in Federal court by any person for infringement of patents and plant variety protections, and that all the remedies can be obtained in such suit that can be obtained in a suit against a private entity;

S. 893. An act to amend title 18, United States Code, with respect to the criminal penalties for copyright infringement;

S. 1439. An act to authorize and direct the Secretary of the Interior to convey certain lands in Livingston Parish, Louisiana, and for other purposes;

S. 1623. An act to amend title 17, United States Code, to implement a royalty payment system and a serial copy management system for digital audio recording, to prohibit certain copyright infringement actions, and for other purposes;

S. 2941. An act to provide the Administrator of the Small Business Administration continued authority to administer the Small Business Innovation Research Program, and for other purposes;

S. 3309. An act to amend the Peace Corps Act to authorize appropriations for the Peace Corps for fiscal year 1993 and to establish a Peace Corps foreign exchange fluctuations account, and for other purposes; and

S. 3327. An act to amend the Agricultural Adjustment Act of 1938 to permit the acre-for-acre transfer of an acreage allotment or quota for certain commodities, and for other purposes.

On October 29, 1992:

S. 1569. An act to implement the recommendations of the Federal Courts Study Committee, and for other purposes;

S. 2481. An act to amend the Indian Health Care Improvement Act to authorize appropriations for Indian health programs, and for other purposes; and

S. 2679. An act to promote the recovery of Hawaii tropical forests, and for other purposes.

On October 30, 1992:

S. 775. An act to improve the program of compensation for veterans exposed to ionizing radiation while in military service; and

S. 1671. An act to withdraw land for the Waste Isolation Pilot Plant, and for other purposes.

On November 2, 1992:

S. 2572. An act to authorize an exchange of lands in the States of Arkansas and Idaho.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. FORD, from the Committee on Rules and Administration, without amendment:

S. 460. An original bill to establish national voter registration procedures for Federal elections, and for other purposes (Rept. No. 103–6).

By Mr. MOYNIHAN, from the Committee on Finance, with amendments:

S. 382. A bill to extend the emergency unemployment compensation program, and for other purposes.

THE EMERGENCY UNEMPLOYMENT COMPENSATION AMENDMENTS OF 1993

Mr. MOYNIHAN. Mr. President, the Committee on Finance yesterday ordered reported the bill S. 382, the Emergency Unemployment Compensation Amendments of 1993 as amended. The bill amends the Emergency Unemployment Compensation Act of 1991—Public Law 102–164, as amended—to extend the existing program of emergency unemployment compensation benefits to October 2, 1992, to similarly extend special unemployment benefits currently provided to railroad workers, and to require the Secretary of Labor to provide technical assistance and administrative funding to the States for establishing automated profiling systems for early identification of potential long-term unemployed workers. The bill authorizes appropriations to fund the cost of emergency benefits. Its provisions are designated as emergency requirements within the meaning of the Balanced Budget and Emergency Deficit Control Act of 1985.

I ask unanimous consent that the text of the bill and a summary of provisions, as reported, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 382

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Emergency Unemployment Compensation Amendments Act of 1993".

SEC. 2. EXTENSION OF EMERGENCY UNEMPLOYMENT COMPENSATION PROGRAM.

(a) GENERAL RULE.—Sections 102(f)(1) and 106(a)(2) of the Emergency Unemployment Compensation Act of 1991 (Public Law 102–164, as amended) are each amended by striking "March 6, 1993" and inserting "October 2, 1993".

(b) MODIFICATION TO FINAL PHASE-OUT.—Paragraph (2) of section 102(f) of such Act is amended—

(1) by striking "March 6, 1993" and inserting "October 2, 1993", and

(2) by striking "June 19, 1993" and inserting "January 15, 1994".

(c) CONFORMING AMENDMENT.—Paragraph (1) of section 101(e) of such Act is amended by striking "March 6, 1993" each place it appears and inserting "October 2, 1993".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to weeks beginning after March 6, 1993.

SEC. 3. TREATMENT OF RAILROAD WORKERS.

(a) EXTENSION OF PROGRAM.—

(1) IN GENERAL.—Paragraphs (1) and (2) of section 501(b) of the Emergency Unemployment Compensation Act of 1991 (Public Law 102–164, as amended) are each amended by striking "March 6, 1993" and inserting "October 2, 1993".

(2) CONFORMING AMENDMENT.—Section 501(a) of such Act is amended by striking "March 1993" and inserting "October 1993".

(b) TERMINATION OF BENEFITS.—Section 501(e) of such Act is amended—

(1) by striking "March 6, 1993" and inserting "October 2, 1993", and

(2) by striking "June 19, 1993" and inserting "January 15, 1994".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to weeks beginning after March 6, 1993.

SEC. 4. PROFILING OF NEW CLAIMANTS.

(a) GENERAL RULE.—The Secretary of Labor shall establish a program for encouraging the adoption and implementation by all States of a system of profiling all new claimants for regular unemployment compensation (including new claimants under each State unemployment compensation law which is approved under the Federal Unemployment Tax Act (26 U.S.C. 3311) and new claimants under Federal unemployment benefit and allowance programs administered by the State under agreements with the Secretary of Labor), to determine which claimants may be likely to exhaust regular unemployment compensation and may need reemployment assistance services to make a successful transition to new employment.

(b) TECHNICAL ASSISTANCE TO STATES.—The Secretary of Labor shall provide technical assistance and advice to the States in the development of model profiling systems and the procedures for such systems. Such technical assistance and advice shall be provided by the utilization of such resources as the Secretary deems appropriate, and the procedures for such profiling systems shall include the effective utilization of automated data processing.

(c) FUNDING OF ACTIVITIES.—For purposes of encouraging the development and establishment of model profiling systems in the States, the Secretary of Labor shall provide to each State, from funds available for this purpose, such funds as may be determined by the Secretary to be necessary.

(d) REPORT TO CONGRESS.—Within 30 months after the date of the enactment of this Act, the Secretary of Labor shall report to the Congress on the operation and effectiveness of the profiling systems adopted by the States, and the Secretary's recommendation for continuation of the systems and any appropriate legislation.

(e) STATE.—For purposes of this section, the term "State" has the meaning given such term by section 3306(j)(1) of the Internal Revenue Code of 1986.

(f) EFFECTIVE DATE.——The provisions of this section shall take effect on the date of the enactment of this Act.

SEC. 5. FINANCING PROVISIONS.

(a) AUTHORIZATION.—There are authorized to be appropriated for nonrepayable advances to the account for "Advances to the Unemployment Trust Fund and Other Funds" in Department of Labor appropriations Acts (for transfer to the "extended unemployment compensation account" established by section 905 of the Social Security Act) such sums as may be necessary to make payments to the States to carry out the purposes of the amendments made by section 2 of this Act.

(b) USE OF ADVANCE ACCOUNT FUNDS.—The funds appropriated to the account for "Advances to the Unemployment Trust Fund and Other Funds" in the Department of Labor Appropriation Act for Fiscal Year 1993 (Public Law 102–394) are authorized to be used to make payments to the States to carry out the purposes of the amendments made by section 2 of this Act.

SEC. 6. EMERGENCY DESIGNATION.

Pursuant to section 251(b)(2)(D)(i) and 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985, the Congress hereby designates all direct spending amounts provided by this Act (for all fiscal years) and all appropriations authorized by this Act (for all fiscal years) as emergency requirements within the meaning of part C of the Balanced Budget and Emergency Deficit Control Act of 1985.

EXPLANATION OF PROVISIONS OF THE EXTENSION OF EMERGENCY UNEMPLOYMENT COMPENSATION PROGRAM

Present Law.—The Federal Emergency Unemployment Compensation (EUC) program was first enacted in November 1991 and extended most recently by P.L. 102-318 on July 3, 1992. The EUC program currently provides workers who exhaust their regular State unemployment benefits with 26 weeks of benefits in States with the highest unemployment and 20 weeks of benefits in all other States. States with adjusted insured unemployment rates (the average of the current week and the preceding 12 weeks) of at least 5 percent, or total unemployment rates (6 month moving average) of at least 9 percent are eligible to pay the higher number of weeks of benefits.

The 26 and 20 week schedule of EUC benefits is in effect so long as the seasonally adjusted national unemployment rate remains at 7 percent or higher. (The rate for the month of January 1992 was 7.1 percent.) Should the national unemployment rate fall below 7 percent for two consecutive months, the law provides that the number of weeks of benefits will be reduced to 15 in high unemployment States and 10 in all other States. Similarly, if the national unemployment rate falls below 6.8 percent for two consecutive months, the number of weeks of benefits will be reduced to 13 and 7 weeks.

The eligibility of States to provide 26 and 20 weeks of EUC benefits as of the week ending February 20 was as follows:

26 weeks: Alaska, California, Oregon, Rhode Island, Washington, West Virginia, and Puerto Rico.

20 weeks: Alabama, Arizona, Arkansas, Colorado, Connecticut, Delaware, Dist. of Columbia, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Wisconsin, Wyoming, and Virgin Islands.

The EUC program expires on March 6, 1993. Workers who exhaust their regular State benefits after that date will be ineligible for EUC benefits. Workers who began receiving EUC benefits on or before March 6 will be entitled to the full number of weeks of benefits for which they were found eligible. They are not required to claim benefits in each consecutive week. However, no benefits are payable after June 19, 1993.

During the period between the March 6 expiration date of the EUC program and the

termination of all EUC benefit payments on June 19, an extended benefit period may be activated in a State. In such a case, individuals who would meet the eligibility requirements for receiving benefits under both the EUC and the extended benefits program are entitled to receive whichever program's benefits are greater.

Committee Bill.—The current EUC program is extended without change through October 2, 1993. Workers who exhaust their regular State benefits after that date will not be eligible for EUC benefits. Workers who begin receiving EUC benefits before that date will be entitled to the full number of weeks of benefits for which they were found eligible. No EUC benefits will be payable after January 15, 1994.

As under current law, if an extended benefit period is activated in a State between the October 2 expiration date of the EUC program and the January 15 date of termination of all EUC benefits, an eligible worker will be entitled to receive EUC benefits or extended benefits, whichever are greater.

TREATMENT OF RAILROAD WORKERS

Present Law.—Workers in the railroad industry are eligible for a separate unemployment compensation program that provides benefits basically equivalent to those provided under regular State unemployment compensation programs. Railroad workers with under 10 years of railroad service are not eligible for extended benefits. The EUC law temporarily provides extended benefits to railroad workers with under 10 years of service and additional weeks of extended benefits to other qualifying railroad workers in order to maintain comparability with the EUC benefits provided to the workers in other industries.

Committee Bill.—Eligible railroad workers will continue to receive the additional benefits provided under the current EUC law throughout the life of the EUC program. This provision has been included at the request of the Committee on Labor and Human Resources.

PROFILING OF NEW CLAIMANTS

Present Law.—There is currently no provision in law that specifically authorizes States to establish systems for developing profiles of workers receiving unemployment compensation for the purpose of identifying those workers most likely to benefit from early assistance and/or training needed to obtain employment.

Committee Bill.—The Secretary of Labor is directed to establish a program for encouraging the adoption and implementation by all States of systems of profiling all new claimants for regular unemployment compensation. These profiling systems will be used to determine which claimants might be most likely to exhaust their regular unemployment compensation benefits and might need reemployment assistance services to make a successful transition to new employment.

The Secretary is required to provide technical assistance and advice to the States in developing automated profiling systems. He is required to report to the Congress within 30 months of enactment on the operation and effectiveness of the profiling systems adopted by the States.

FINANCING PROVISIONS

The Committee bill authorizes the appropriation of nonrepayable advances to the account "Advances to the Unemployment Trust Fund and Other Funds" in such sums as may be required to pay EUC benefits. Under the Committee bill, funds already appropriated to this account for fiscal year 1993 may be used to pay EUC benefits.

EMERGENCY DESIGNATION

The Committee bill contains an emergency designation provision to ensure that the bill complies with Congressional budget process procedures and does not activate a sequestration of mandatory or discretionary spending programs. All of the provisions of the bill are designated as "emergency" for purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, February 24, 1993.

Hon. DANIEL PATRICK MOYNIHAN,
Chairman, Committee on Finance, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 382, the Emergency Unemployment Compensation Amendments of 1993, as ordered reported by the Senate Committee on Finance on February 24, 1993.

The bill would affect direct spending or receipts and thus would be subject to pay-as-you-go procedures under section 13101 of the Budget Enforcement Act of 1990.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

JAMES L. BLUM,
(For Robert D. Reischauer).

CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE

1. Bill number: S. 382.
2. Bill title: The Emergency Unemployment Compensation Amendments of 1993.
3. Bill status: As ordered reported by the Senate Finance Committee on February 24, 1993.
4. Bill purpose: To extend the Emergency Unemployment Compensation Act of 1991, and for other purposes.

FEDERAL GOVERNMENT COST

[By fiscal year, in millions of dollars]

	1993	1994	1995	1996	1997	1998
DIRECT SPENDING						
Emergency unemployment compensation:						
Estimated budget authority	3,210.0	2,340.0	0	0	0	0
Estimated outlays	3,210.0	2,340.0	0	0	0	0
Administrative expenses: [1]						
Estimated budget authority	110.0	0	0	0	0	0
Estimated outlays	110.0	0	0	0	0	0
Railroad unemployment:						
Estimated budget authority	2.5	(2)	0	0	0	0
Estimated outlays	2.5	(2)	0	0	0	0
Total direct spending:						
Estimated budget authority	3,322.5	2,340.0	0	0	0	0
Estimated outlays	3,322.5	2,340.0	0	0	0	0
AMOUNTS AUTHORIZED FOR APPROPRIATION						
Administrative expenses:						
Estimated authorization level	0	80.0	0	0	0	0
Estimated outlays	0	80.0	0	0	0	0
Profiling new claimants:						
Estimated authorization level	7.0	19.0	7.0	5.0	5.0	5.0
Estimated outlays	7.0	19.0	7.0	5.0	5.0	5.0
Total discretionary spending:						
Estimated authorization level	7.0	99.0	7.0	5.0	5.0	5.0
Estimated outlays	7.0	99.0	7.0	5.0	5.0	5.0

[1] For fiscal year 1993, the administrative expenses would not need any further appropriation action because of language in the Labor-HHS 1993 appropriation bill. The Labor-HHS 1993 appropriation bill makes available an additional $30 million for every 100,000 increase in the average weekly insured unemployment above 3.54 million.
[2] Less than $500,000.

The costs of this bill fall within budget function 600. The spending effects of the bill are discussed below.

Direct Spending: S. 382 would extend the current Extended Unemployment Compensation Act of 1991 through October 2, 1993. Recipients who file claims by October 2, 1993 could continue to collect emergency unemployment compensation benefits through January 15, 1994. Based on recent program spending, CBO estimates the additional benefit payments from this bill would be $3.2 billion in fiscal year 1993 and $2.3 billion in fiscal year 1994. CBO estimates the additional benefit payments through the Railroad Unemployment Insurance Program would be $2.5 million in fiscal year 1993 and less than $500,000 in fiscal year 1994.

In addition, CBO estimates there would be additional administrative costs of $190 million to process the additional claims for Extended Unemployment Compensation. Only $110 million of the $190 million would be considered direct spending.

Amounts authorized for appropriations: S. 382 would require the Secretary of Labor to establish a program to encourage all states to implement a system of profiling all new claimants. The profiling system would determine which claimants are most likely to exhaust regular unemployment compensation and therefore, to benefit from reemployment assistance. The bill requires the Secretary of Labor to provide technical assistance and advice to the states as they develop and implement these profiling data systems. Based on information from the Department of Labor (DOL), CBO estimates that a total of $20 million would be required over 3 years to develop and implement the automated data systems. In addition, DOL would operate a design center at the federal level. This center would help develop model systems for the states and serve as a resource center for state offices. We estimate a cost of $3 million in fiscal year 1993 and $5 million each year in fiscal years 1994 through 1998 for the operation of the design center.

6. Budget Enforcement Act Considerations: This section discuses how the bill would affect pay-as-you-go procedures and the discretionary spending limits under the Budget Enforcement Act of 1990 (BEA).

Pay-as-you-go: The BEA sets up pay-as-you-go procedures for legislation affecting direct spending or receipts through 1995. The pay-as-you-go effects of the bill are shown in the following table.

[By fiscal years, in millions of dollars]

	1993	1994	1995
Outlays	3,322.5	2,340.0	0
Receipts	(1)	(1)	(1)

[1] Not applicable.

Under section 13101 of the BEA, amounts provided in this bill that have been designated as emergency spending by the President and the Congress do not count against the pay-as-you-go restrictions of that section. In section 6 of this bill, the Congress designates as an emergency any direct spending provided pursuant to this bill. If the President also makes an emergency designation, amounts pursuant to this bill will not be subject to the pay-as-you-go procedures.

Amounts authorized for appropriation: Under section 13101 of the BEA, amounts authorized to be appropriated that have been designated as emergency spending by the President and the Congress do not count against the spending limits under section 601 of the Congressional Budget Act of 1974. In section 6 of this bill, the Congress designates as an emergency any spending appropriated pursuant to this bill. If the President also

makes an emergency designation, amounts appropriated pursuant to this bill will not be counted against the discretionary spending limits.

7. Estimated cost to State and local governments: None.

8. Estimate comparison: None.

9. Previous CBO estimate: None.

10. Estimate prepared by: Cory Oltman.

11. Estimate approved by: C.G. Nuckols, Assistant Director for Budget Analysis.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. KRUEGER:

S. 436. A bill to provide for a Special Assistant to the President to conduct a Federal performance audit and review, and for other purposes; to the Committee on Governmental Affairs.

S. 437. A bill to amend the Congressional Budget and Impoundment Control Act of 1974 to establish procedures for the expedited consideration by the Congress of certain proposals by the President to rescind amounts of budget authority; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one Committee reports, the other Committee have thirty days to report or be discharged.

By Mr. GRAHAM (for himself, Mr. D'AMATO, Mr. REID, Ms. MIKULSKI, Mr. WOFFORD, Mr. MACK, and Mr. LAUTENBERG):

S. 438. A bill to amend the Internal Revenue Code of 1986 to remove certain high-speed rail facility bonds from the State volume cap; to the Committee on Finance.

By Mr. COATS (for himself, Mr. BOREN, Mr. SPECTER, Mr. GLENN, Mr. MCCONNELL, Mr. FORD, Mrs. KASSEBAUM, Mr. NICKLES, Mr. GRASSLEY, Mr. MATHEWS, Mr. WARNER, Mr. DOLE, Mr. LUGAR, Mr. SASSER, Mr. RIEGLE, Mr. BOND, Mr. METZENBAUM, and Mr. WOFFORD):

S. 439. A bill to amend the Solid Waste Disposal Act to permit Governors to limit the disposal of out-of-State solid waste in their States, and for other purposes; to the Committee on Environment and Public Works.

By Mr. GORTON (for himself, Mr. AKAKA, Mr. D'AMATO, Mr. THURMOND, Mrs. KASSEBAUM, Mr. SHELBY, Mr. DECONCINI, Mr. BREAUX, and Mr. BRYAN):

S. 440. A bill to amend the Comprehensive Drug Abuse Prevention and Control Act of 1970 to control the diversion of certain chemicals used in the illicit production of controlled substances, to provide greater flexibility in the regulatory controls placed on the legitimate commerce in those chemicals, and for other purposes; to the Committee on the Judiciary.

By Mr. CAMPBELL:

S. 441. A bill to amend title 18, United States Code, to provide a mandatory minimum sentence for the unlawful possession of a firearm by a convicted felon, a fugitive from justice, a person who is addicted to, or an unlawful user of, a controlled substance, or a transferor or receiver of a stolen firearm, to increase the general penalty for a violation of Federal firearms laws, and to increase the enhanced penalties provided for the possession of a firearm in connection with a crime of violence or drug trafficking crime, and for other purposes; to the Committee on the Judiciary.

By Mr. BINGAMAN:

S. 442. A bill to provide for the maintenance of dams located on Indian lands by the Bureau of Indian Affairs or through contracts with Indian tribes; to the Committee on Indian Affairs.

By Mr. SPECTER:

S. 443. A bill to amend the Solid Waste Disposal Act and the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to make improvements in capacity planning processes, and for other purposes; to the Committee on Environment and Public Works.

By Mr. STEVENS (for himself and Mr. MURKOWSKI):

S. 444. A bill to require a study and report on the safety of the Juneau International Airport, with recommendations to Congress; to the Committee on Commerce, Science, and Transportation.

By Mr. CONRAD (for himself, Mr. DORGAN, Mr. WELLSTONE, Mr. CRAIG, Mr. FEINGOLD, Mr. BURNS, Mr. PRESSLER, Mr. GRASSLEY, Mrs. MURRAY, and Mr. DASCHLE):

S. 445. A bill to amend the Food, Agriculture, Conservation, and Trade Act of 1990 to improve monitoring of the domestic uses made of certain foreign commodities in order to ensure that agricultural commodities exported under agricultural trade programs are entirely produced in the United States, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. ROTH (for himself, Mr. BRADLEY, Mr. BREAUX, and Mr. LAUTENBERG):

S. 446. A bill to extend until January 1, 1996, the existing suspension of duty on tamoxifen citrate; to the Committee on Finance.

By Mr. JOHNSTON (for himself, Mr. AKAKA, and Mr. WALLOP):

S. 447. A bill to facilitate the development of Federal policies with respect to those territories under the jurisdiction of the Secretary of the Interior; to the Committee on Energy and Natural Resources.

By Mr. JEFFORDS:

S. 448. A bill to amend the Federal Water Pollution Control Act to provide for additional certification requirements for certain licenses and permits, and for other purposes; to the Committee on Environment and Public Works.

By Mr. SMITH (for himself, Mr. KEMPTHORNE, Mr. MCCAIN, Mr. LOTT, Mr. BROWN, and Mr. BURNS):

S. 449. A bill to amend the Internal Revenue Code of 1986 to allow individuals to designate that up to 10 percent of their income tax liability be used to reduce the national debt, and to require spending reductions equal to the amounts so designated; to the Committee on Finance.

By Mrs. BOXER:

S. 450. A bill to advance the development and transfer of environmental and other nonmilitary technologies, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. JOHNSTON (for himself, Mr. LOTT, Mr. SHELBY, Mr. HEFLIN, Mr. HATCH, Mr. DECONCINI, Mr. THURMOND, Mr. BREAUX, Mr. GRASSLEY, Mr. COATS, Mr. CHAFEE, Mr. DOLE, Mr. GORTON, Mr. MCCONNELL, Mr. PACKWOOD, Mrs. KASSEBAUM, Mr. BURNS, Mr. CAMPBELL, Mr. GRAHAM, Mr. COCHRAN, Mr. SMITH, Mr. D'AMATO, Mr. NICKLES, Mr. SIMPSON, Mr. BROWN, Mr. JEFFORDS, Mr. MCCAIN, Mr. MACK, and Mr. HARKIN):

S. 451. A bill to establish research, development, and dissemination programs to assist in collaborative efforts to prevent crime against senior citizens, and for other purposes; to the Committee on the Judiciary.

By Mr. CONRAD (for himself, Mr. DORGAN, Mr. SHELBY, Mr. DASCHLE, Mr. AKAKA, Mr. LEVIN, Mr. EXON, Mr. DECONCINI, Mr. KOHL, Mr. RIEGLE, Mr. PRESSLER, Mr. BOREN, Mr. BINGAMAN, Mr. BAUCUS, Mr. KRUEGER, Mr. PRYOR, Mr. FORD, Mr. GRAHAM, and Mr. D'AMATO):

S. 452. A bill to amend chapter 17 of title 38, United States Code, to establish a program of rural health-care clinics, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. BINGAMAN:

S. 453. A bill to amend title XVIII of the Social Security Act to provide for coverage of payment for home health services where an individual is absent from the home at an adult day center; to the Committee on Finance.

By Mr. BRYAN (for himself and Mr. REID):

S. 454. A bill to extend the suspension of duty on three-dimensional cameras; to the Committee on Finance.

By Mr. HATFIELD (for himself, Mr. BURNS, Mr. BAUCUS, Mr. CRAIG, Mr. MURKOWSKI, and Mr. HATCH):

S. 455. A bill to amend title 31, United States Code, to increase Federal payments to units of general local government for entitlement lands, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. SIMON (for himself and Mr. WOFFORD):

S. 456. A bill to establish school-to-work transition programs for all students, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. EXON:

S. 457. A bill to prohibit the payment of Federal benefits to illegal aliens; to the Committee on Finance.

By Mr. SMITH (for himself, Mr. REID, Mr. SHELBY, Mr. WALLOP, Mr. HATCH, Mr. GREGG, Mr. DOMENICI, Mr. MACK, Mr. HEFLIN, Mrs. KASSEBAUM, Mr. STEVENS, Mr. GRAMM, Mr. HELMS, Mr. D'AMATO, Mr. DANFORTH, Mr. BAUCUS, Mr. SIMPSON, Mr. MCCAIN, Mr. LOTT, Mr. DOLE, Mr. BURNS, Mr. BROWN, Mr. THURMOND, Mr. BRYAN, Mr. COHEN, Mr. CRAIG, and Mr. NICKLES):

S. 458. A bill to restore the Second Amendment Rights of all Americans; to the Committee on Governmental Affairs.

By Mr. PACKWOOD (for himself, Mr. GORTON, Mr. CRAIG, Mr. STEVENS, and Mr. SIMPSON):

S. 459. A bill to arrest the decline in, and promote the restoration of, the health of forest ecosystems on Federal lands, to reduce the escalating risk to human safety posed by potentially catastrophic wildfires on Federal lands, to require the Secretary of the Interior to establish a special fund for Bureau of Land Management activities in furtherance of forest health, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. FORD:

S. 460. An original bill to establish national voter registration procedures for Fed-

eral elections, and for other purposes; from the Committee on Rules and Administration; placed on the calendar.

By Mr. MACK:

S. 461. A bill to treat a protest filed with respect to the liquidation of certain entries as filed within the time required under the Tariff Act of 1930; to the Committee on Finance.

By Mr. BUMPERS (for himself, Mr. WARNER, Mr. SASSER, Mr. COHEN, and Mr. BRYAN):

S. 462. A bill to prohibit the expenditure of appropriated funds on the United States International Space Station Freedom program; to the Committee on Appropriations.

S. 463. A bill to prohibit the expenditure of appropriated funds on the Superconducting Super Collider program; to the Committee on Appropriations.

By Mr. SASSER:

S. 464. A bill to redesignate the Pulaski Post Office located at 111 West College Street in Pulaski, Tennessee, as the "Ross Bass Post Office"; to the Committee on Governmental Affairs.

By Mr. DASCHLE:

S. 465. A bill to amend the Internal Revenue Code of 1986 to encourage the production of biodiesel and certain ethanol fuels, and for other purposes; to the Committee on Finance.

By Mr. DASCHLE (for himself and Mr. INOUYE):

S. 466. A bill to amend title XIX of the Social Security Act to provide for medicaid coverage of all certified nurse practitioners and clinical nurse specialists services; to the Committee on Finance.

By Mr. MACK (for himself, Mr. GRAHAM, Mr. INOUYE, Mr. AKAKA, Mr. BREAUX, and Mr. JOHNSTON):

S. 467. A bill to amend the Internal Revenue Code of 1986 to provide tax relief for certain disaster victims, and for other purposes; to the Committee on Finance.

By Mr. THURMOND:

S. 468. A bill to amend provisions of title 18, United States Code, relating to terms of imprisonment and supervised release following revocation of a term of probation or supervised release; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. PELL (for himself, Mr. MITCHELL, Mr. CHAFEE, Mr. KENNEDY, Mr. DODD, Mr. KERRY, Mr. LIEBERMAN, Mr. D'AMATO, Mr. SMITH, Mr. COHEN, Mr. GREGG, Mr. JEFFORDS, Mr. LAUTENBERG, and Mr. ROTH):

S. Res. 74. Resolution expressing the opposition of the Senate to the imposition of a fee on or in-kind storage diversion requirement for imported crude oil and refined petroleum products; to the Committee on Finance.

By Mr. SPECTER:

S. Con. Res. 11. Concurrent resolution stating that no action be taken on any legislative proposal on the President's program unless it is a unified package containing offsets for any additional expenditures through cuts in programs or increased taxes; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one Committee reports, the other Committee have thirty days to report or be discharged.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KRUEGER:

S. 436. A bill to provide for a special assistant to the President to conduct a Federal performance audit and review, and for other purposes; to the Committee on Governmental Affairs.

S. 437. A bill to amend the Congressional Budget and Impoundment Control Act of 1974 to establish procedures for the expedited consideration by the Congress of certain proposals by the President to rescind amounts of budget authority; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if the committee reports, the other committee have 30 days to report or be discharged.

FEDERAL GOVERNMENT LEGISLATION

Mr. KRUEGER. Mr. President, I am today introducing two bills, one that I would call the Federal Efficiency Improvement Act of 1993 and the other one to expedite consideration of proposed rescissions.

I am introducing this legislation, Mr. President, because it seems to me that this Nation is facing a time of loss of confidence in Government itself and in its efficiency in a time in which our own budgetary pressures are perhaps unrivaled in recent years.

This is going to be, in my judgment, one of the most crucial legislative sessions since the New Deal itself. Our task is not simply to restore fiscal discipline to our Government, but our task is to help restore confidence in the American people themselves that we are capable of dealing with very large and complex financial problems.

All over America, people are looking at business and saying, business must become leaner, it must become more streamlined, business has to become increasingly a high-quality, low-cost producer. At this point, people are still inclined to feel that Government itself is high cost, low quality, the opposite side of what they are aspiring to.

Our President has indicated his willingness to address some very tough fiscal questions, and he is also recognizing the need, as we are in this body, to try to down size our own activities to make them more prudent, more fiscally responsible.

To help carry out this mandate, I am introducing the Federal Efficiency Improvement Act that would allow for the appointment of a special assistant to the President who would be empowered to conduct a total performance audit of every Federal department, including in fact the General Accounting Office itself. This special assistant would independently manage a tough-minded staff of 200 existing Federal employees, chosen for their prior experience with Federal programs.

In many cases, the people who best understand how to make Government more efficient are the people who are front-line employees but sometimes are caught in circumstances in which there are very few rewards for efficiency. In Government, there is so often a tendency to reward spending rather than saving. If we look at the many currently successful businesses in our country, companies like WalMart, there are companies that reward savings inside the company rather than simply spending. A reward system that would encourage the same thing of our Federal employees would, I think, tap a reservoir of knowledge, experience, and capacity that currently we are not tapping.

This audit team's main function would be to study the Federal Government by function and not merely by agency. By concentrating on function, the audit team would be able to more effectively highlight wastefulness and inefficiency within Government agencies.

I think it important as well that the audit team's responsibilities go beyond simply identifying misused resources. I would expect it to make recommendations for improving the effectiveness and quality of Government services, to suggest ways in which operations could perhaps be restructured in order to bring about long-term savings, to rationalize governmentwide activities like procurement and personnel and to try to establish incentives for bringing in returns that were, in fact, under budget.

I think many of these recommendations could come from front-line Government employees. Others might come from people brought in to assist, not sort of high-powered consultants or academic types but entrepreneurs who have experience on how to make companies run more efficiently.

Within 6 months of the bill's passage, the audit team would be required to submit a detailed set of findings and recommendations to the President including specific rescissions of budgetary authority and proposals for legislation to implement the recommendations. Within 60 days of submission of this report, the President would be obliged to identify all rescissions of budget authority that he deems necessary to implement the team's recommendations.

I make this suggestion in part because of the experience in my own State of Texas. There, State comptroller John Sharp conducted such performance audits and in 1991, these performance audits rendered a savings of $2.4 billion out of a $30 billion budget; in other words, there was a savings of about 12 percent. If a savings of comparable sort might be found in the Federal Government, it would be $150 billion in the first year.

I am not expecting anything of that sort. But the important thing is I think we direct ourselves toward the task of saving rather than spending and that we direct ourselves toward creating a Government again deserving of the people's trust.

The American people are fully willing to sacrifice but they are willing to sacrifice for what they believe are worthy ends. If we think of the stores with which we do business, the stores with which we do business were providing services for which we were not fully satisfied, then for those stores to raise the prices would be simply unacceptable. I think that is the challenge we face right now. To ask the American people to put in more taxes at a time they do not feel their taxes are being well spent is to ask them for something to which they will not readily respond. It seems to me first we must make Government sacrifice before we ask the American people to sacrifice further.

Therefore, the legislation that I am introducing today provides for expedited rescission of wasteful Government spending by the President and the rescission authority would allow the President more quickly to eliminate inefficiencies in Government operations such as those that were to be identified by these Federal audit teams.

Both the bills that I am introducing today will address the critically important aspect of our obligation to the American taxpayer, efficient and exemplary operation of the Federal Government. I know that people in both Houses are proposing various ways to eliminate wasteful Government spending. I am certain that during the course of this year we will have many suggestions and that there will be fruitful ways to improve upon the legislation I am introducing.

But I think it immensely important we convey to one another and to the American people that we recognize their concern for how we as stewards are spending their money. I think that this aspect of stewardship is one which will be benefited by having performance audits which will allow us to identify what it is we are doing in Government with these resources which have been entrusted to us.

I therefore look forward to seeking further support from my colleagues and to having this legislation considered by this body, because I am convinced that the American people believe it is indeed a time ready for change and a time that is crucial in the very economic and fiscal development of this country.

So I am pleased to be able to introduce this legislation and will seek to bring forward the bills soon.

I thank the Chair.

The PRESIDENT pro tempore. The bills will be received and appropriately referred.

By Mr. GRAHAM (for himself, Mr. D'AMATO, Mr. REID, Ms. MIKULSKI, Mr. WOFFORD, Mr. MACK, and Mr. LAUTENBERG):

S. 438. A bill to amend the Internal Revenue Code of 1986 to remove certain high-speed rail facility bonds from the State volume cap; to the Committee on Finance.

HIGH-SPEED RAIL INCENTIVES ACT OF 1993

Mr. GRAHAM. Mr. President, I rise today to introduce legislation to accelerate the conversion of high-speed rail systems in America from the design books to operation.

I am certain this bill is familiar to many of our colleagues. It is familiar because the Senate considered this precise legislation last summer in the form of an amendment to H.R. 11, the Revenue Act of 1992.

My bill will lift the State caps on issuing tax-exempt bonds for high-speed rail projects. As you will recall from the debate last year, high-speed rail is already eligible for tax-exempt bonds.

The problem is that these projects are so expensive that they alone would cause States to exceed their annual caps on revenue bonds. Airports and seaports are exempt from these caps; the High-Speed Rail Incentives Act of 1993 would simply add high-speed train systems to this exemption list.

Last year, the Senate voted, 55–40, to include this proposal in H.R. 11, and the final bill kept that amendment intact. However, the ensuing Presidential veto of the bill has brought me before you again today, asking for your support once more.

Financing is perhaps the single greatest obstacle to implementation of high-speed surface transportation technologies in the United States. Equalizing tax incentives to the private sector will permit transportation infrastructure investment decisions to be made more fairly and on the basis of merit.

I want to emphasize that point: We are not asking the Federal Government to pay for constructing or operating these systems, but merely to provide incentives for the private sector to raise the necessary funding. These are the same incentives we already provide for airport and seaport projects.

The momentum is behind this proposal. In fact, the identical measure has been included by the Clinton administration in its vision for change package.

In addition, high-speed rail is rapidly gaining prominence in the American transportation arena, while industry is taking a growing interest in rail in general.

Recently, five defense and aerospace firms have submitted proposals, in coordination with international railcar companies, to build cars for the Los Angeles County light rail system. A Washington Post article which I will submit for the RECORD reports that Amtrak has negotiated an agreement with most major U.S. freight railroads which will allow high-speed trains to travel along existing freight lines in the future.

At the State level, many high-speed train systems are in the planning stages—from California and Nevada to Texas to Florida. But the developers are hard to attract because the risks are so high. Our job as legislators is to show that developing this technology is a national priority. We must prove that we are not asking America's major corporations to get into the white elephant business.

Tax-exempt bonds reduce the cost of debt by some 30 percent. That is an impressive figure which the potential backers of high-speed rail says will help them reach their objective.

There are reasons why high-speed rail has attracted such a diverse group of advocates. It is safe. After carrying over a billion passengers in Europe and Japan, high-speed trains have yet to cause a single passenger fatality. It is environmentally responsible. High-speed rail is powered by electricity, which is among the cleanest energy sources.

In terms of land conservation, 2 tracks of a high-speed system can potentially carry as many travelers as 10 lanes of an interstate highway.

It is energy-efficient. Electrified rail is four times more efficient than airplane travel and three times more efficient than automobiles.

Perhaps most importantly, we have no choice. Our road systems and airways are running out of room, and we have to come up with another way to move people and goods efficiently.

Mr. President, the legislation which I will be introducing today, is familiar to our colleagues because it is the same legislation which was introduced and adopted last summer in the form of an amendment to H.R. 11, the Revenue Act of 1992. That act subsequently was vetoed by then President Bush and has, therefore, not become law. Thus, I am reintroducing this concept today as a separate matter.

The legislation relates to tax-exempt bond financing for high-speed rail systems. Under the current law, Mr. President, tax-free bonds, that is, bonds which are sold, the interest of which is free of Federal tax, are available for most forms of transportation. For example, if a community wished to build an airport or a seaport, they could issue such bonds without limit up to the cost of financing the particular project.

As it relates to high-speed rail, however, there is a cap on the amount of bonds which can be issued in any single year. That cap is a function of the population of the State.

The difficulty with that cap is that, just as with airports and seaports, high-speed rail systems tend to be a capital-intensive major public works

project for a short period of time, and, therefore, during the period in which the project is being built and financed, typically the amount of financing required, exceeds the cap which is placed on that particular State's annual ability to borrow and utilize the tax-free bond provision.

The objective of this legislation would be to lift that cap and thus place high-speed rail in the same position as airports and seaports in terms of their ability to access that form of financing for their construction.

Over the past several years, Congress has taken a number of initiatives which have facilitated the development of high-speed rail in this Nation. We now see one of the first results of that with the adoption, or the demonstration, of a high-speed train between Washington and New York utilizing new technology on existing tracks.

The expectation is that a full expansion of high-speed rail—for the United States, for instance, to have a system that is as comprehensive as many European countries and Japan have—will require the development of new tracks and electrification of those tracks, and a key issue for that subsequent development will be the availability of tax-free bond financing.

This proposal has also received political momentum by the strong support which was given to it by Presidential candidate Bill Clinton in seeking the Presidency. Candidate Clinton indicated that one of his visions for America was an America that would create high-paid jobs by a major effort to capture new technologies and then apply those technologies to America.

One of the several areas that he specifically mentioned as a candidate for that new technology leadership, was in high-speed rail.

I am pleased that, now, the President has included in his economic stimulus program the precise numbers that would be necessary to support the legislation which I am introducing today; that is, the President has recommended in his economic package the availability, without a capped limitation, of tax-free bonds for purposes of financing high-speed rail systems.

But there have been some other very important nongovernment initiatives that have created a favorable environment for high-speed rail. To list some: Five defense and aerospace firms, in the southern California area, have come together to form a consortium to develop high-speed rail technology using many of the techniques and systems which were originally developed for aerospace or defense purposes, now to the development of high-speed rail.

A Washington Post article, which I ask unanimous consent to be printed in the RECORD, Mr. President, reports that Amtrak has negotiated an agreement with most major U.S. freight railroads which will allow high-speed trains to travel along their existing freight lines.

Mr. President, this should further facilitate the adoption of high-speed rail within our country.

At the State level, many high-speed rail systems are at advanced stages of planning. In California, Nevada, Texas, and Florida, States are demonstrating an interest in being a partner in the development of high-speed rail.

Mr. President, what I personally see is a relationship between Government and high-speed rail much like the relationship between an airport authority and a commercial airline; that is, that Government's role will be in developing the corridor, the right-of-way, the track, and the terminal facilities, which will be franchises who will actually be the ones who will own the rolling stock and operate the equipment. That is a relationship that has been well-developed in other areas of transportation in America. I anticipate that will serve the some beneficial purpose for high-speed rail.

The reasons why all of these governmental and nongovernmental initiatives seem to be coalescing behind the development of an assertive U.S. policy in support of high-speed rail, is the fact that it would serve so many interests. High-speed rail is a safe form of transportation. After carrying over 1 billion passengers, Mr. President, in Europe and Japan, high-speed trains have yet to cause one passenger fatality—1 billion passengers, zero fatalities.

It is environmentally responsible. High-speed rail is powered by electricity, which is among the cleanest energy sources.

In terms of land conservation, 2 tracks of high-speed rail can potentially carry as many travelers as 10 lanes of an interstate highway system. It is energy efficient. Electrified rail is four times more efficient in terms of cost of energy per passenger mile than airplane travel, three times more efficient than automobiles. And, perhaps most importantly, we are increasingly having no choice but to develop a contemporary high-speed rail complement to our airline and highway system. Our road system and airways are literally running out of room.

To cite one example, the American Association of State Highway and Transportation Officials tells us that surface travel demand is expected to at least double by the year 2020, slightly more than 25 years from now.

In my State of Florida, for instance, if current traffic patterns continue, it would require 22 highway lanes in each direction to safely handle the traffic between Miami and Tampa by the year 2015. It is preposterous to think that we would build such a road system. Similarly, the Federal Aviation Administration says that our 21 primary airports each now experience more than 20,000 hours of annual flight delays at a cost of at least $5 billion. That 1-year cost is almost 140 times the projected cost of this legislation over 5 years.

Mr. President, one of the themes of America is the central role of transportation in our Nation's development. In the 19th century, the Federal Government assisted in the creation of canals and river transportation and railroads. In this century, the interstate system has redrawn the map for urban and rural America. The question before us, as we enter the 21st century, is what will be our contribution to the mobility of America in the next century?

A modern system of high-speed ground transportation should be an important part of that challenge and of that answer. I hope my colleagues will join in this effort to define our generation's role in the future of American transportation.

Mr. President, I ask unanimous consent that the text of the bill and the Washington Post article be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 438

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "High-Speed Rail Incentives Act of 1993".

SEC. 2. REMOVAL OF VOLUME CAP FOR CERTAIN HIGH-SPEED RAIL FACILITY BONDS.

(a) IN GENERAL.—Paragraph (4) of section 146(g) of the Internal Revenue Code of 1986 (relating to exception for certain bonds) is amended by inserting ", other than any such bond described in subsection (h)(1)" after "rail facilities)".

(b) CONFORMING AMENDMENTS.—Subsection (h) of section 146 of such Code (relating to exception for government-owned solid waste disposal facilities) is amended—

(1) by striking "section 142(a)(6)" in paragraph (1) and inserting "paragraph (6) or (11) of section 142(a)", and

(2) by inserting "AND HIGH-SPEED RAIL" before "FACILITIES" in the heading thereof.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after the date of the enactment of this Act.

[From the Washington Post, Thursday, February 4, 1993]

AGREEMENT CLEARS THE TRACK FOR GROWTH OF HIGH-SPEED RAIL

(By Don Phillips)

Amtrak and major U.S. freight railroads yesterday announced an agreement removing most legal and financial barriers to expansion of high-speed train operation nationally, including relief for freight companies from all passenger-train accident liability no matter what the cause.

The plan generally allows use, after negotiations, of freight track anywhere in the country for passenger service at speeds to 150 mph if Amtrak or governmental bodies pay for all necessary improvements and shield freight companies from all legal liability.

That means taxpayers might have to absorb a greater share of damage claims because passenger trains are operated by Am-

trak, which receives some public subsidies, or by state and local governments.

The agreement was negotiated by chief executive officers of Amtrak and the 13 major freight railroads at a woodland retreat near Charleston, S.C., last December.

Under the plan, any trains that exceed 150 mph would require a new right-of-way separate from any freight tracks.

Although Amtrak owns the track on its busiest line from Washington to New York and Boston, it must contract with freight railroads to run passenger trains almost anywhere else in the country. Because most passenger trains do not exceed 80 mph, they can safely share track with freights, some of which run almost that fast.

But the new generation of trains designed for much higher speeds on existing right-of-way would create safety problems unless major improvements are made. These include new signal systems, removal of grade crossings and perhaps additional tracks on the same right of way. Amtrak is now testing such a train, the Swedish X-2000 tilt train, between Washington and New York.

The agreement removes a potentially serious impediment to use of new passenger trains on runs such as Chicago-Detroit, Miami-Tampa, San Francisco-Los Angeles and Washington-Charlotte, N.C., although freight railroads must approve each operation.

It also marks the end of almost three decades of hostility toward passenger operations by freight railroads. Gradually, a new generation of railroad official has come to realize that both commuter and passenger trains can make a profit and that freight trains can benefit from expensive track up-grading necessary to maintain passenger service.

Edwin L. Harper, president of the Association of American Railroads, said the passage of time has left the rail industry "a distance from the bloodying the freight railroads took in the passenger business." Until Amtrak was formed in 1971, private railroads operated passenger trains at a major loss, incurring bad publicity every time they attempted to abandon service.

The agreement, announced by Harper and Amtrak President W. Graham Claytor Jr., has these major elements:

Freight railroads will cooperate fully in allowing passenger service, including high-speed, on new routes. Each project will be evaluated individually, and "accommodation may not be feasible in all cases."

The full cost of improvements must be paid by the sponsor of the passenger service. That must include removal of road crossing, new signal and speed-control equipment and much higher levels of maintenance. It may require building new tracks parallel to existing tracks, and freight service must not be degraded.

Freight railroads must be indemnified against all legal liability from passenger operations, even if a passenger accident is caused by the gross negligence of a freight employee.

Liability has been a key sticking point since a Conrail locomotive, whose engineer had been smoking marijuana, rolled from a parallel track in front of a 128-mph Amtrak train at Chase, Md., on Jan. 4, 1987, killing 16 people and injuring 170. A damage settlement cost Conrail millions of dollars, with the exact figure kept secret under a confidentiality agreement.

Most recently, Conrail initially blocked use of its tracks in the District by Virginia Railway Express, the commuter line, until Congress absolved Conrail of all liability.

Claytor said legislation may be necessary to implement the agreement. The former chairman of the Southern Railroad Co., a freight hauler, said he could understand the freights' reluctance to be responsible for potentially huge costs of an accident involving a service that they neither sponsor nor sometimes want.

"It's something that a freight railroad just couldn't accept," he said. That is true even if a disaster is caused "just because some employee made a terrible goof."

By Mr. COATS (for himself, Mr. BOREN, Mr. SPECTER, Mr. GLENN, Mr. MCCONNELL, Mr. FORD, Mrs. KASSEBAUM, Mr. NICKLES, Mr. GRASSLEY, Mr. MATHEWS, Mr. WARNER, Mr. DOLE, Mr. LUGAR, Mr. SASSER, Mr. RIEGLE, Mr. BOND, Mr. METZENBAUM, and Mr. WOFFORD):

S. 439. A bill to amend the Solid Waste Disposal Act to permit Governors to limit the disposal of out-of-State solid waste in their States, and for other purposes; to the Committee on Environment and Public Works.

INTERSTATE TRANSPORTATION OF MUNICIPAL WASTE ACT OF 1993

Mr. COATS. Mr. President, I rise today to introduce legislation to give States and communities the right to say no to out-of-State trash. This issue has become quite well known to this body over the past 3 years. In that time the Senate has spoken on two occasions, in each occasion passing legislation by an overwhelming bipartisan margin, to allow States and communities to restrict unwanted trash imports.

I introduce the bill today along with a number of cosponsors, and I am pleased that a bipartisan group of Senators has agreed to be original cosponsors of the Interstate Transportation of Municipal Waste Act of 1993. They include: Senators BOREN, SPECTER, GLENN, MCCONNELL, FORD, KASSEBAUM, NICKLES, GRASSLEY, MATHEWS, WARNER, DOLE, LUGAR, SASSER, RIEGLE, BOND, METZENBAUM, and Senator WOFFORD, who have all signed on as original cosponsors, and we hope to add others as we examine this legislation dealing with an issue that is critical to many of our States.

The bill I introduce today does three essential things:

First, it gives States and communities, for the first time in history, the power to say "no" to new shipments of out-of-State trash.

Second, it allows continued trash shipments to a limited universe of landfills that meet all State standards for environmentally sound facilities.

Third, it provides that no landfill becomes a target for out-of-State trash by giving all States the ability to freeze volumes at grandfathered facilities.

This legislation adopts the framework of S. 2877, which passed the Senate last year by a vote of 89–2. However, the bill I introduce today strengthens the hand of importing States in several important ways:

First, the new bill provides all Governors certain additional authorities to regulate the flow of out-of-State waste, such as a freeze on imports and reservation of landfill capacity. Last year, these authorities were given to four States.

Second, the new bill allows States to limit trash imports to 30 percent at landfills that received 50,000 tons of out-of-State trash in 1991. In last year's bill, that level was 100,000 tons.

Third, current contracts will be protected under State law, rather than special protection under Federal law as in last year's bill.

These are significant changes. We have talked with individual Governors and at the National Governor's Association. We have talked with representatives of importing States. All believe these are necessary modifications to strengthen the ability of States to control their environmental futures.

Over the past year, the situation has changed for many States. Our argument remains the same. Landfill space is continuing to fill up with other States trash thus endangering our ability to take care of and plan for our own trash needs. I am appreciative that the big exporting States have recognized this problem.

By the same token, we recognize that exporting States need time to take care of their own trash. But how much more time do they need to get their respective houses in order?

We have been on this issue for 3 years now. Political will can solve the crisis in exporting States. Take, for example, the experience of Pennsylvania. In less than 3 years time, the State of Pennsylvania was able to move from less than 2 years landfill capacity to greater than 10 years.

I think we all know it is impossible to recycle the whole waste stream. Capacity must be sited and that is going to take alot of political will. But some States continue to drag their feet. In 1991, New York closed 50 landfills and did not open a single new facility—New York's Garbage exports have increased 400 percent in the last 5 years.

Mr. President, I ask unanimous consent that the full text of an editorial involving the cross border flow of Canadian trash be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Buffalo News, Feb. 24, 1993]

EYING CANADA'S GARBAGE CUSTOMS QUIZ IS GOOD; BAN WOULD BE BETTER

Trucking Canadian garbage into the United States will at least be more difficult after March 1. Eventually this country must act to stop the cross-border garbage flow altogether. But for now the U.S. Customs Service is usefully imposing more difficult entry requirements.

Hauler bringing garbage over the border will have to complete an extensive form, ex-

plaining what is in their load. For the first time, officials here will have an idea of what grubby wastes are reaching landfills from Canada. And they'll know how much.

Truckers would also have to post surety bonds at the point of entry and agree to answer more questions within 10 days.

But these tightened customs procedures can only be considered a halfway measure against an undesirable import. The federal government needs to stop Canadian garbage from coming to U.S. landfills. Period.

The basic rule should be: We'll take care of our own waste and Canada—with its vast landscape—can take care of its own.

At the moment, though, it is financially attractive for Canadian garbage haulers to head for the border crossings. Dumping rates have jumped to $150 a ton in the Toronto area, compared to landfill charges as low as $15 a ton in some Midwestern states. Very little waste winds up in Western New York. But if one of several large proposed landfills gets built hereabouts, this area could become a favorable stop.

As it is, more than enough is rumbling by Western New York on its way to Ohio, Pennsylvania and points west. Canadian officials say garbage shipments to this country have grown to 1.2 million tons.

Rep. Bill Paxon, R-Amherst, a new addition to the Subcommittee on Transportation and Hazardous Waste, wants legislation to stop the garbage run. Western New Yorkers should hope he succeeds. Regulating the flow is a good step. But stopping it would be better.

Mr. COATS. Here is an excerpt:

The basic rules should be: We'll take care of our own waste and Canada—with it vast landscape—can take care of its own. At the moment, though, it is financially attractive for Canadian garbage haulers to head for the border crossings. Dumping rates have jumped to $150 a ton in the Toronto area, compared to landfills charges as low as $15 a ton in some midwestern states. Very little waste winds up in western New York. But if one of several large proposed landfills gets built hereabouts, this area could become a formidable stop.

It goes on:

Regulating the flow is a good step. But stopping it would be better.

Take note of the reasoning: Those who produce garbage should be responsible for it. Take note of the source: A New York newspaper, the Buffalo News. This is our argument. This is our demand. This is the simple objective of our legislation.

In my State, we have a very ambitious State solid waste management plan which will be overwhelmed if we are not able to regulate the flow of waste into our State. Indiana is down to 5 years landfill capacity. In 1992, we received 1.8 million tons of out-of-State trash up from 1.6 million tons in 1991. While we received less direct long-haul trash last year, it is impossible to ascertain the origin point of the trash we are taking in.

This is so because trash is often long hauled to Indiana and other States indirectly through transfer stations in other States. As Arthur A. Davis, secretary of the Pennsylvania Department of Environmental Resources has stated, "based on our investigations, much of the waste purported to have come from Pennsylvania to other States for disposal is actually New Jersey waste coming through Philadelphia area transfer facilities."

At present, in Indiana, we have an elaborate shell game going on in which the trash is passed from landfill to landfill. When one landfill stops receiving long-haul, the trucks miraculously appear at another landfill down the road.

Despite our best efforts to manage our own solid waste, we are still faced with a simple fact: We cannot control our future if we cannot control or borders.

In Indiana we are taking care of our own trash. We ask only that every State be environmentally responsible and accountable for the trash it generates.

State legislatures have tried to take care of this problem but their ability to act effectively is limited. Each time States attempt to address this situation, the courts have ruled the State Laws unconstitutional.

The courts have ruled that trade in trash is protected by the Commerce clause of the Constitution and that States cannot enact laws interfering with that trade.

This past June the Supreme Court handed down two decisions which struck down States' attempts to regulate the flow of out-of-State waste reaffirming that only Congress possesses the constitutional mandate to regulate trade between the States.

The Supreme Court's decisions have affirmed the need for the Coats bill—only Congress has the constitutional authority to regulate interstate commerce.

We need to pass an interstate waste bill this year. Next year is too late. With every passing day, with every passing week and month, more States find that they have become members of the trash club.

I am pleased that Congressman RON WYDEN of Oregon has introduced a companion bill and has pledged to steer this issue to passage in the House of Representatives. I am also encouraged by the statements made by President Clinton during the campaign supporting a States right to ban out-of-State trash. In a debate in South Dakota on February 23, 1992, the President clearly stated the problem and the solution:

Our State was targeted by people from back East who wanted to bring a lot of their garbage in * * * one of the things that the United States Congress should pass, and the President should sign, an act which gives every State the right to ban the import of out-of-State waste * * * the States ought to be able to decide.

As Governor of Arkansas, President Clinton learned first hand of the problems associated with an unimpeded flow of trash from other States.

In this Nation, we have unintentionally created a system which penalizes States that have mustered the political will to handle their own waste disposal needs. But it still provides no penalties for exporting States which drag their feet on dealing with their own trash.

In this new legislation, we are issuing a simple plea for each community, each State, to be responsible for the environment, and accountable for the trash they generate.

Mr. President, as I indicated in my remarks, we have had two attempts now to pass this legislation, and I am pleased that the Senate on both occasions has passed with significant bipartisan support legislation giving States and communities the authority to deal with this problem. I am disappointed that the other body, the House of Representatives, has not joined us. I am optimistic this year that they will.

So I send to the desk new legislation titled the Interstate Transportation of Municipal Waste Act of 1993, with the cosponsors that I indicated in my remarks, and ask that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 439

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Interstate Transportation of Municipal Waste Act of 1993".

SEC. 2. INTERSTATE TRANSPORTATION OF MUNICIPAL WASTE.

Subtitle D of the Solid Waste Disposal Act (42 U.S.C. 6941 et seq.) is amended by adding at the end the following new section:

"INTERSTATE TRANSPORTATION OF MUNICIPAL WASTE

"SEC. 4011. (a) AUTHORITY TO RESTRICT OUT-OF-STATE MUNICIPAL WASTE.—(1)(A) Except as provided in subsection (b), if requested in writing by both an affected local government and an affected local solid waste planning unit, if the local solid waste planning unit exists under State law, a Governor may prohibit the disposal of out-of-State municipal waste in any landfill or incinerator that is subject to the jurisdiction of the Governor or the affected local government.

"(B) Prior to submitting a request under this section, the affected local government and solid waste planning unit shall—

"(i) provide notice and opportunity for public comment concerning any proposed request; and

"(ii) following notice and comment, take formal action on any proposed request at a public meeting.

"(2) Beginning with calendar year 1993, a Governor of a State may, with respect to landfills covered by the exceptions provided in subsection (b)—

"(A) notwithstanding the absence of a request in writing by the affected local government and the affected local solid waste planning unit, if any,—

"(i) limit the quantity of out-of-State municipal waste received for disposal at each landfill in the State to an annual quantity equal to the quantity of out-of-State municipal waste received for disposal at the landfill during the calendar year 1991 or 1992, whichever is less; and

"(ii) limit the disposal of out-of-State municipal waste at landfills that received, during calendar year 1991, documented shipments of more than 50,000 tons of out-of-State municipal waste representing more than 30 percent of all municipal waste received at the landfill during the calendar year, by prohibiting at each such landfill the disposal, in any year, of a quantity of out-of-State municipal waste that is greater than 30 percent of all municipal waste received at the landfill during calendar year 1991; and

"(B) if requested in writing by the affected local government and the affected local solid waste planning unit, if any, prohibit the disposal of out-of-State municipal waste in landfill cells that do not meet the design and location standards and leachate collection and ground water monitoring requirements of State law and regulations in effect on January 1, 1993, for new landfills.

"(3) In addition to the authorities provided in paragraph (1)(A), beginning with calendar year 1997, a Governor of any State, if requested in writing by the affected local government and the affected local solid waste planning unit, if any, may further limit the disposal of out-of-State municipal waste as provided in paragraph (2)(A)(ii) by reducing the 30 percent annual quantity limitation to 20 percent in each of calendar years 1998 and 1999, and to 10 percent in each succeeding calendar year.

"(4)(A) Any limitation imposed by the Governor under paragraph (2)(A)—

"(i) shall be applicable throughout the State;

"(ii) shall not discriminate against any particular landfill within the State; and

"(iii) shall not discriminate against any shipments of out-of-State municipal waste on the basis of State of origin.

"(B) In responding to requests by affected local governments under paragraphs (1)(A) and (2)(B), the Governor shall respond in a manner that does not discriminate against any particular landfill within the State and does not discriminate against any shipments of out-of-State municipal waste on the basis of State of origin.

"(5)(A) Any Governor who intends to exercise the authority provided in this paragraph shall, within 120 days after the date of enactment of this section, submit to the Administrator information documenting the quantity of out-of-State municipal waste received for disposal in the State of the Governor during calendar years 1991 and 1992.

"(B) On receipt of the information submitted pursuant to subparagraph (A), the Administrator shall notify the Governor of each State and the public and shall provide a comment period of not less than 30 days.

"(C) Not later than 60 days after receipt of information from a Governor under subparagraph (A), the Administrator shall determine the quantity of out-of-State municipal waste that was received at each landfill covered by the exceptions provided in subsection (b) for disposal in the State of the Governor during calendar years 1991 and 1992, and provide notice of the determination to the Governor of each State. A determination by the Administrator under this subparagraph shall be final and not subject to judicial review.

"(D) Not later than 180 days after the date of enactment of this section, the Administrator shall publish a list of the quantity of out-of-State municipal waste that was received during calendar years 1991 and 1992 at each landfill covered by the exceptions provided in subsection (b) for disposal in each State in which the Governor intends to exercise the authority provided in this paragraph, as determined in accordance with subparagraph (C).

"(b) EXCEPTIONS TO AUTHORITY TO PROHIBIT OUT-OF-STATE MUNICIPAL WASTE.—The authority to prohibit the disposal of out-of-State municipal waste provided under subsection (a)(1) shall not apply to—

"(1) landfills in operation on the date of enactment of this section that—

"(A) received during calendar year 1991 documented shipments of out-of-State municipal waste; and

"(B) are in compliance with all applicable State laws (including any State rule or regulation) relating to design and location standards, leachate collection, ground water monitoring, and financial assurance for closure and post-closure and corrective action;

"(2) proposed landfills that, prior to January 1, 1993, received—

"(A) an approval from the affected local government to receive municipal waste generated outside the county or the State in which the landfill is located; and

"(B) a notice of decision from the State to grant a construction permit; or

"(3) incinerators in operation on the date of enactment of this section that—

"(A) received, during calendar year 1991, documented shipments of out-of-State municipal waste;

"(B) are in compliance with the applicable requirements of section 129 of the Clean Air Act (42 U.S.C. 7429); and

"(C) are in compliance with all applicable State laws (including any State rule or regulation) relating to facility design and operations.

"(d) DEFINITIONS.—As used in this section:

"(1)(A) The term 'affected local government', with respect to a landfill or incinerator, means the elected officials of the city, town, borough, county, or parish in which the facility is located.

"(B) Within 90 days after the date of the enactment of this section, the Governor shall designate which entity listed in subparagraph (A) shall serve as the affected local government for actions taken under this section. If the Governor fails to make a designation, the affected local government shall be the city, town, borough, county, parish, or other public body created pursuant to State law with primary jurisdiction over the land or the use of land on which the facility is located.

"(2) The term 'affected local solid waste planning unit' means a political subdivision of a State with authority relating to solid waste management planning in accordance with State law.

"(3) With respect to a State, the term 'out-of-State municipal waste' means municipal waste generated outside of the State. To the extent that it is consistent with the United States-Canada Free Trade Agreement and the General Agreement on Tariffs and Trade, the term shall include municipal waste generated outside of the United States.

"(4) The term 'municipal waste' means refuse (and refuse-derived fuel) generated by the general public or from a residential, commercial, institutional, or industrial source (or any combination thereof), consisting of paper, wood, yard wastes, plastics, leather, rubber, or other combustible or noncombustible materials such as metal or glass (or any combination thereof). The term 'municipal waste' does not include—

"(A) any solid waste identified or listed as a hazardous waste under section 3001;

"(B) any solid waste, including contaminated soil and debris, resulting from a response action taken under section 104 or 106 of the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9604 or 9606) or a corrective action taken under this Act;

"(C) any metal, pipe, glass, plastic, paper, textile, or other material that has been separated or diverted from municipal waste and has been transported into the State for the purpose of recycling or reclamation;

"(D) any solid waste that is—

"(i) generated by an industrial facility; and

"(ii) transported for the purpose of treatment, storage, or disposal to a facility that is owned or operated by the generator of the waste, or is located on property owned by the generator or a company with which the generator is affiliated;

"(E) any solid waste generated incident to the provision of service in interstate, intrastate, foreign, or overseas air transportation;

"(F) any industrial waste that is not identical to municipal waste with respect to the physical and chemical state of the industrial waste, and composition, including construction and demolition debris;

"(G) any medical waste that is segregated from or not mixed with municipal waste; or

"(H) any material or product returned from a dispenser or distributor to the manufacturer for credit, evaluation, or possible reuse.".

SEC. 3. TABLE OF CONTENTS AMENDMENT.

The table of contents of the Solid Waste Disposal Act is amended by adding at the end of the items relating to subtitle D the following new item:

"Sec. 4011. Interstate transportation of municipal waste.".

Mr. COATS. Mr. President, I note the presence of our new colleague from Tennessee, Senator MATHEWS, and I am pleased that he has signed on to become an original cosponsor of this, and I am pleased that he has taken the opportunity this morning to join in this morning business discussion of this legislation.

With that I yield the floor.

• Mr. MATHEWS. Mr. President, I rise today in support of the Interstate Transportation of Municipal Waste Act of 1993. I am pleased to join Senator COATS as an original cosponsor of this legislation, and I urge my colleagues in the Senate to give careful consideration to this legislation which affects every State in this country.

Mr. President, we are all aware of the growing waste problems in this country. The closure of existing landfills and the difficulty of siting new ones are problems which communities across this country face more and more. The oft used term "NIMBY," not in my back yard, represents the attitude taken by most of us when a new landfill site is proposed for our community. This attitude has led many communities to look outside their own land base to other areas and often other States as potential sites to which municipal solid waste can be transported.

Now, Mr. President, I am not condemning the practice of shipping waste to regional or interstate landfills. Many States, including my home State of Tennessee, have established regional compacts or other agreements to han-

dle solid waste problems. This legislation does not seek to alter these agreements nor prevent similar arrangements in the future.

The legislation does, as my colleague from Indiana has noted, empower a Governor to limit, and in some cases prohibit, the transportation of municipal solid waste into his or her own State, without prior agreement. In addition, those landfills which do not meet State or federally mandated established safety standards can also be prohibited from receiving waste.

The legislature in Tennessee drafted and passed in 1991 a solid waste management act establishing a framework for local governments to do local and regional planning. This act did consider the interstate transport of solid waste; however, it did not presume that Tennessee might be inundated with waste from across the country.

Mr. President, I am concerned not only by the volume of waste but also by the content. As we all know, mixed waste is often shipped, waste which contains hazardous materials which create a serious safety concern during transport and upon arrival.

Mr. President, the growing landfill problems make the transport of such wastes across State boundaries a very attractive option. A recent report by the National Solid Waste Management Association notes that in 1986 six States east of the Mississippi River had landfill capacities in excess of 10 years. At the end of 1991 that number had been cut in half to only three States with that capacity, one of which is Tennessee.

Getting a handle on the number of landfills in this country has been described as like trying to count the number of snowflakes during a storm. Openings, closures, reclassifications and other activities related to landfill status make the data on the Nation's long-term capacity an estimate at best.

I am concerned that local governments are being denied the authority to manage their own affairs. A State like my own should not face the possibility of being targeted as a landfill for other States because it has done a better job of handling its own solid waste. It is apparent that interstate compacts can be worked out by public and private waste management groups. However, a Governor should have the authority to dictate when and how much waste enters his or her own State.

Mr. President, the Senate passed this legislation during the 102d Congress, but action was stalled in the House of Representatives. I hope we can move quickly forward with this bill again and that our colleagues in the House will do the same.●

● Mr. BOREN. Mr. President, it is high time that we give local communities the right to say no to interstate trash. People in rural areas are sick and tired of having no control in deciding whether or not unwanted garbage is dumped in their backyard. Currently States and local governments are powerless to stop the influx of waste from other States. This legislation finally gives people a real defense against unwanted interstate trash and gives States the ability to manage solid waste.

We have been debating the issue of interstate waste for over 3 years. The bill before us would grant new authority to Governors to prohibit the disposal of out-of-State waste if requested by the local affected government. It also gives new authority to all Governors to freeze the amount of trash coming into their States at current levels. States would know the maximum amount of waste coming in from other States and could develop responsible waste management plans accordingly.

Fighting out-of-State trash is especially important in Oklahoma because we have more open space and generate less garbage than most other States. Municipal solid wastes in the United States have increased from 128 million tons in 1975 to 179 million tons in 1988 and are expected to rise to 216 million tons by the year 2000. Of this total, Oklahoma generates just over 3 million tons of solid waste per year. New York and New Jersey alone send twice that amount, more than 7 million tons, out of State every year. Much of this waste ends up in small towns or rural communities.

Just a few days ago, about half of the citizens of Coalgate, OK, sent me a petition they had signed in opposition to a proposed hazardous medical waste incinerator that may be located in their county. This particular incinerator would create 20 jobs in this county which tends to have a higher rate of unemployment than the national average. The people of this community do not want out-of-State waste to come in despite its economic benefits.

Oklahoma already has one incinerator operating that must import medical waste to burn because our hospitals do not generate enough waste to run the facility. And here is a proposal to build another incinerator which would be forced to accept waste from States either unwilling to build their own facilities or find it cheaper to send it elsewhere.

I do not mean to imply that other States are not making efforts to address their solid waste problems, but clearly these efforts are not enough. Something needs to be done to ensure that the consequences of this problem are not shouldered by rural States. The game of pass-the-trash must end.

Oklahoma has less than 5 years of average landfill capacity left. High volumes of waste from other States reduce Oklahoma's capacity to manage its own waste and encourages other States to avoid their responsibilities. If we are going to preserve our environment, we cannot allow responsible States to become a dumping ground for others.

Chief Justice William Rehnquist made this observation in his dissenting opinion in the Michigan case last year:

> It is no secret why capacity is not expanding sufficiently to meet demand—the substantial risks attendant to waste sites make them extraordinarily unattractive to neighbors. The result, of course, is that while many are willing to generate waste * * * few are willing to dispose of it. Those locales that do provide disposal capacity to serve foreign waste effectively are affording reduced environmental and safety risks to the States that will not take charge of their own waste.
>
> I see no reason in the Commerce clause, however, that requires cheap inland States to become the waste repositories for their brethren, thereby suffering the many risks that such sites present.

This legislation will force other States to bear their fair share of the burden and develop responsible waste management plans. The need for action is clear. States are being inundated with garbage which can only be stopped through congressional action. In the past few months alone, 6 companies have proposed to dispose of or incinerate out-of-State waste in 15 different locations throughout Oklahoma.

As landfills swell around the country and the cost of waste disposal continues to increase, I believe we must deal with this problem on the national level. We must ensure that all States live up to the highest standards of disposing their municipal waste.

A permanent solution is needed this year. My State and others cannot afford to stand powerless while other States neglect their responsibilities and spoil our environment.●

● Mr. SPECTER. Mr. President, I am pleased to join my colleague from Indiana as an original cosponsor of the Interstate Waste Protection Act of 1993. This legislation will provide States with significant authority to restrict imports of out-of-State municipal solid waste.

I want to state at the outset that I am concerned that this legislation does not address the issue of whether States will have the authority to limit out-of-State waste shipments to landfills which have host community agreements that allow for certain quantities of out-of-State waste. As my colleagues may recall, these agreements were protected in similar legislation introduced last year. I intend to work with my colleague from Indiana to resolve this issue before this legislation is passed.

Mr. President, Pennsylvania is far and away the largest importer of out-of-State waste in the United States. During calendar year 1992, according to the Pennsylvania Department of Environmental Resources, Pennsylvania imported in excess of 4 million tons of garbage from other States in the northeastern region, primarily New York and New Jersey. In 1992, New York exported 1,381,220 tons of trash to

23 Pennsylvania landfills, and New Jersey exported 2,253,221 tons to 21 different Pennsylvania landfills. Pennsylvania's waste imports are almost twice as much as the second largest importer in the country, Ohio, whose landfills received slightly over 2 million tons of municipal solid waste in 1992. Moreover, according to 1992 figures, the amount of trash received at Pennsylvania's two largest importing landfills, Empire and Tulleytown, either equalled or exceeded the total amount taken by every State in the country except Ohio.

While we have heard for the last several years that these States are working to reduce the amounts of waste that they export, the most recent data suggest that, in fact, the amount of New York and New Jersey waste being shipped to Pennsylvania landfills is increasing. Trash imports to Pennsylvania for the first quarter of 1992 alone were up 43 percent over first quarter 1991 levels. In the first quarter of 1992, New Jersey exported 539,429 tons to Pennsylvania landfills, whereas in 1991 they exported 407,337 tons in the first quarter, an increase of 132,092 tons. In the first quarter of 1992, New York exported 274,709 tons to Pennsylvania landfills, while in the first quarter of 1991 they exported 169,317 tons, an increase of 105,392 tons. Other States also increased their exports to Pennsylvania by a total of 51,115 tons in the first quarter of 1992, and Canada increased its exports by 55,104 tons. The 1992 totals represent approximately a 30 percent increase over the 3.1 million tons of garbage Pennsylvania landfills received in calendar year 1991. As a result, an additional 17,500 large trash trucks from out-of-state will be travelling on Pennsylvania highways to dump trash in Pennsylvania landfills. The limited data we have available for 1993 suggests the problem is only getting worse.

Without legislation to empower States to restrict cross-border flows of garbage, States such as Pennsylvania will inevitably end up as the dumping ground for States that are unwilling to enact and enforce realistic long-term waste management plans. With stricter environmental standards for landfills coming into effect, it should be incumbent upon each State to make sure it is providing adequate capacity to handle its waste stream. States such as Pennsylvania, which maintains the highest environmental standards for its 43 largest landfills, should not be burdened with excessive amounts of garbage from neighboring States which are unwilling to provide adequate capacity to meet their own waste disposal needs.

I am encouraged by the efforts of many State and local governments to reduce the waste stream by developing comprehensive recycling programs. According to the National Solid Waste Management Association, there were only 600 curbside recycling programs across the Nation in 1989. By 1991 that figure had increased to a total of 3,500 programs. In my State of Pennsylvania, recycling programs have proved to be an effective means of dealing with the problem of waste management. In 1988, the Pennsylvania State Legislature enacted Act 101, which required 600 Pennsylvania communities to implement recycling programs. By complying with the guidelines of this legislation, Pennsylvania's waste stream has been reduced from 9.1 million tons in 1990 to 8.3 million tons in 1992. With economic development agencies adding to the expansion of recycling markets, I believe that the size of the waste stream will continue to decline. Success, however, will be jeopardized if State planning efforts continue to be trumped by growing volumes of out-of-State waste replacing planned instate disposal capacity.

It is important to recognize that these programs take time to implement and should be realistic in terms of their long-term recycling goals. While many officials from large waste exporting States enjoy talking about their ambitious recycling goals, there is an immediate need to correct the present problem and make provisions to handle the larger portion of the waste stream that cannot be recycled. New Jersey officials have spoken of their plan to achieve 60 percent recycling by 1996 to illustrate New Jersey's commitment to waste reduction. However, these individuals have failed to mention that their recycling figures apparently include a whole host of industrial recycling activities which include scrap automobiles and highway asphalt recycling. These types of industrial wastes are recycled at a much higher rate than household trash and thus distort the recycling figures significantly. We should not allow unrealistic recycling goals as a substitute for comprehensive, realistic long-term waste management plans.

Mr. President, I am confident that this legislation will encourage States to take responsibility for their waste management needs. Until all States act to site sufficient state-of-the-art landfill capacity and implement realistic recycling programs, we will need to empower States to preserve the capacity they have. Accordingly, I urge my colleagues to support this bill and look forward to its prompt consideration by the Senate.•

• Mr. METZENBAUM. Mr. President, as a cosponsor of Senator COATS' bill, I rise to speak in support of efforts to give States explicit authority to limit the trash which currently flows across their borders.

Ohio, unfortunately, is one of the biggest recipients of other States' garbage. In 1991, the most recent year for which numbers are available, over 1.7 million tons of trash came from outside Ohio's borders. This garbage fills up precious landfill space that Ohioans could use for their own disposal needs.

Last year I worked with my Senate colleagues to enact legislation similar to the bill being introduced here today. While that legislation died in the House with the conclusion of the 102d Congress, the problem did not go away. That is why I support my colleague from Indiana's effort to get this issue moving again now.

While I think Senator COATS' bill is a step in the right direction, it is only a first step. In my State, imports of ordinary garbage appear to be declining slightly from previous years.

However, industrial waste imports have been increasing at an alarming rate. Such waste covers industrial byproducts like wastewater treatment plant filter cake, spent foundry sand and slag, scrap basing cement, and spent oil filters.

According to Ohio officials, more than 40 percent of the imported trash choking Ohio landfills could be classified as industrial waste and could escape coverage under the bill as introduced today.

I look forward to working with Senator COATS and other sponsors of this legislation to address the critical issue of industrial waste. In the meantime, though, I believe we must move forward in our efforts to give States more authority to limit out-of-State trash.•

• Mr. BOND. Mr. President, I am very pleased to once again cosponsor legislation with Senator COATS, and others which would give States new and necessary authority to limit the disposal of out-of-State garbage within their borders. The ingredients for this explosive mix are easy to identify: Highly urbanized States, many in the Northeast, with expensive and crowded landfills but literally tons of garbage, have found it cheaper and easier to have their waste hauled thousands of miles to the wide open spaces of the Midwest, with cheaper, bigger landfills. In the process, we have lost much of our landfill space, at bargain basement rates, to someone else's garbage. In addition, as last year's saga of the infamous New York trash train illustrated, out-of-State garbage poses a health and safety risk. The train wandered through Missouri for more than a week, lacking the required State permit to dump its smelly contents.

This new legislation would prevent future trash trains by giving States and localities new authority to regulate trash imports. For example, a Governor, at the request of the local government, could ban out-of-State waste from any landfill that did not meet new State landfill standards or did not receive such waste in 1991.

In addition, a Governor could also freeze garbage imports at current levels at any-landfill in the State, even if it complied with State standards and

received such waste in 1991. Under the bill, he can take such action without the request of the locality.

Finally, for large landfills which receive a high volume of out-of-State waste, the legislation gives Governors additional authority to reduce the volume from 30 to 10 percent over 5 years.

Mr. President, it is high time States were given this needed authority. States like Missouri have been taken advantage of by the crowded Northeast for far too long; we must be able to control our own trash destiny. I urge my colleagues' support for the legislation.•

• Mr. GLENN. Mr. President, I am pleased to be an original cosponsor of the Interstate Transportation of Municipal Waste Act of 1993. I have supported and voted for restrictions on imported waste for several years, and I commend my colleague, Senator COATS for his perseverance on this important issue.

The accumulation of solid waste in municipal landfills is one of the most urgent and fundamental environmental problems facing Federal, State, and local officials today. According to the Ohio Environmental Protection Agency [OEPA], all the landfills in Ohio could be full by the year 2000.

In 1988, Ohio enacted a comprehensive solid waste management law. Since enactment of that legislation, 34 of the 48 solid waste districts in Ohio have submitted waste management plans to the U.S. Environmental Protection Agency [EPA]. The State has also set a goal of reducing and recycling 25 percent of its waste by June 1994. Ohio is clearly taking significant steps toward resolving its waste crisis; however, rapidly dwindling landfill capacity in my State is threatened with being overwhelmed by vast quantities of waste hauled long distance from out-of-State.

Mr. President, in 1990, Ohio received 1.8 million tons of imported waste. As old landfills are closed or fill up, Ohio has reached the point where of 88 counties, 28 have no landfills, and 35 have 5 years or less of capacity. We cannot implement our environmental objectives and deal with thousands of tons of imported trash at the same time. Requiring my State and others to handle both their own solid waste problems as well as other States' problems is neither fair nor possible.

The Interstate Transportation of Municipal Waste Act gives States the authority to ban out-of-State waste when requested by the affected local government and local planning authority. In addition, it would allow States to freeze imported waste at 1991 or 1992 levels at certain facilities. Finally, the bill would permit Governors to place additional limits on out-of-State waste at landfills that received 100,000 tons or more of imported waste in 1991.

Mr. President, we must act decisively and we must act now to avert a national crisis in solid waste management. Our environment is too fragile and the impact on our citizens is too severe for us to ignore this problem any longer. I urge my colleagues to join me in supporting this legislation.•

• Mr. WOFFORD. Mr. President, Pennsylvania receives more interstate municipal waste than any other State. In 1992, our State received 3.77 million tons of municipal waste, far more than any other State. This amount alone accounts for over 30 percent of Pennsylvania's total waste stream and is a significant increase from the 3 million tons we received in 1991. Clearly, it is time to allow States to preserve their own resources for their own waste.

Pennsylvania is the Nation's leader in recycling. In our Commonwealth 653 communities have curbside recycling programs. An additional 247 have drop-off recycling. Over 7.2 million Pennsylvanians participate in these programs. In 1992, 966,000 tons of waste were recycled in Pennsylvania. Our recycling programs have gained national attention and honors. City and State, the national newspaper for State and local governments, lauded our programs in October 1992 by calling the Pennsylvania recycling programs "government at its finest." In addition, our landfill standards are the highest in the Nation and they are vigorously enforced. Pennsylvania yields to no other State in comprehensive recycling and waste reduction.

In spite of our efforts, Mr. President, Pennsylvania cannot control the increasing amount of out-of-State waste that consume thousands of acres of land each year. I join in cosponsoring this legislation because Congress needs to address the interstate waste issue soon. As a member of the Environment and Public Works Committee, I have worked with my colleagues to craft an effective interstate waste bill. This legislation includes my amendment from the last Congress which allows Governors to cap the total amount of out-of-State waste and limit out-of-State waste to 30 percent of the capacity of a landfill. Other issues remain including flow control and the ability of Governors in States like Pennsylvania with decentralized local governments to address waste issues on a statewide basis.

Mr. President, interstate transportation of municipal waste is clogging Pennsylvania roads, filling Pennsylvania land, and jeopardizing Pennsylvania's future. I believe that Congress needs to address this issue soon and I look forward to working with my colleagues to achieve that goal.•

• Mr. NICKLES. Mr. President, today I join with Senator COATS and other colleagues in introducing a bill that gives communities, in cooperation with the States, the authority to restrict imports of out-of-State municipal waste. I congratulate Senator COATS for his outstanding efforts to protect States from having unwanted, out-of-State waste dumped upon them and their communities.

The Environmental Protection Agency estimates that Americans generate 180 million tons of trash a year, which averages about 4 pounds per person daily. This amount could reach 216 million tons per year by the turn of the century at current rates of production.

Out-of-State waste has quickly become an issue which carries a great deal of emotion. In Oklahoma, we have been enticed by waste peddlers wanting to spread their product far and wide across our plains and pastures. You can guarantee a huge turnout at a community meeting by announcing a proposal to import New York sludge to spread across the countryside. Rarely have I witnessed the type of concern expressed by citizens when talk of imported waste is about to hit their town.

The issue of waste imports has taken center stage. Remember the 63-car train filled with sewage sludge which criss-crossed the country looking for a home for its unwanted waste, only to find it was not welcomed, and finally was forced to return to where it started. Then, for days, the Nation followed the saga of the wayward barge, brimming with oozing waste, as it was refused entry as it roamed from port to port.

These two notable cases were attempts to locate an out-of-State landfill to dispose of their unwanted waste. About 80 percent of today's waste is disposed of in such landfills, but landfill space is decreasing rapidly. In 1960, approximately 30,000 landfills, or open dumps, existed in the United States. This number has declined from 20,000 in 1979, to fewer than 6,000 today. An October 1989 report by the Office of Technology Assessment estimates that 80 percent of existing landfills will close within 20 years. New regulations for landfills, promulgated by the Environmental Protection Agency in October 1991, are expected to further reduce the number of operating sites.

Because of this decline in disposal capacity, many areas in the Northeast and west coast are experiencing a gap between the available disposal capacity and the amount of waste being generated. This gap is being filled by long-haul waste transport to disposal sites in the midsection of the country. Today, along with Senator COATS and others, I am introducing a bill that will make it unlawful for the owner or operator of a solid waste disposal facility to receive out-of-State trash unless the affected local government authorizes receipt.

For the last several years, I have been working with Senator COATS to pass legislation which would put a halt to unwanted out-of-State waste being dumped in Oklahoma. In 1990, I supported an amendment sponsored by

Senator COATS which would have allowed States to immediately impose higher fees on solid waste originating out of State. While the amendment was approved by the Senate, it was later dropped in conference with the House.

The bill we are introducing today takes the issue of out-of-State waste to the people it effects the most—the local residents of the area where the landfill is located. It gives States and communities, for the first time in history, the power to say no to new shipments of out-of-State trash. It allows continued trash shipments to a limited universe of landfills that meet all State standards for environmentally sound facilities. Also, it provides that no landfill can become a target for out-of-State waste by giving all States the ability to freeze volumes at grandfathered facilities.

Without this bill, Oklahoma could become the dumping ground for other States' trash against its will. This bill provides the authority for local governments and States to decide for themselves whether out-of-State trash is acceptable in their communities. Those who have to live with someone else's trash should be the ones to decide.●

● Mr. MCCONNELL. Mr. President, I want to take a moment to express my support for the Interstate Transportation of Municipal Waste Act that was introduced today. Last year, a similar measure passed the Senate by an overwhelming margin. I hope that we can finally enact interstate waste legislation this year.

Our Nation faces serious challenges in the way we handle the massive amount of waste we generate each day. But, unlike the communities back east that can deal with their garbage problems by exporting them to places far away, the folks in Kentucky can do little to keep out trash from other States. Large waste imports make it difficult, if not impossible, for States like mine to come to grips with their own waste disposal needs.

My State has made substantial progress on the State and local level in planning for future waste disposal in a prudent, environmentally responsible manner. Kentucky's comprehensive waste management plan has reduced what was once a tidal wave of out-of-State trash to no more than a trickle.

But Federal legislation is still needed so that laws in States like Kentucky cannot be struck down as violative of the Constitution's commerce clause. This can only be accomplished by Congress making a clear delegation to States and local communities of the authority to prohibit the dumping of out-of-State waste.

Federal legislation is the only way to ensure that State waste management plans, limiting the influx of out-of-State garbage, are on a constitutionally sound footing. Therefore, I want to reaffirm my strong support for giving States and local communities the power to take control of their environmental futures. I am proud to be an original cosponsor of the Interstate Transportation of Municipal Waste Act, and will work hard to enact this much needed legislation in the 103d Congress.●

● Mr. BAUCUS. Mr. President, earlier today Senator COATS introduced legislation regarding the interstate transportation of municipal solid waste. When I learned that he planned to do so, I thought of Yogi Berra's famous expression, "it's deja vu all over again."

I share Senator COATS'S hope that we can enact legislation soon. And I understand that many other Senators are keenly interested in this issue. Therefore, as chairman of the Environment and Public Works Committee, I want to suggest how the Senate can most constructively proceed.

Last year's deliberations made clear that, if we want to enact legislation in this area, interested parties must set their differences aside and compromise. Last year, after a lot of work, the Senate took such an approach. As a result, we were able to pass significant legislation that would have given States and communities authority to restrict out-of-State municipal waste.

However, the legislation introduced today does not take this approach. Instead, it makes a number of significant changes in last year's consensus bill. As a result, it may in fact set us back rather than move us ahead.

Nevertheless, I am optimistic that we can again pass similar legislation. But unlike last year, I am hopeful that we can work with the other body and the administration to see that it becomes law.

In that light, I will be working with Senator LAUTENBERG, the subcommittee chairman with jurisdiction over this issue, with other Senators both on and off my committee, with the other body, and with the administration, to develop acceptable legislation.

I hope that we can reach agreement quickly. But, I must warn my colleagues that the more we reopen old issues and inject new ones, the more difficult it will be to achieve concensus.

I also want to advise my colleagues that those calling for tighter restrictions should understand that the interstate waste issue is changing.

First, the amount of waste being shipped over long distances has declined. However, in some areas short-haul waste shipments, are on the rise. This changes the nature of the debate, because communities in nearly every State rely on these short-haul waste shipments.

Second, this October, EPA's new municipal landfill regulations will become effective, forcing many communities to close older, uncontrolled dumps. This may leave some communities without enough landfill capacity to manage all of their own waste. So in some cases, these communities will look to regional landfills, perhaps in another State, to meet some of their needs. It is therefore important that we preserve the options that communities across the country are now considering.

It is important that we begin this year's process on the right foot. In that vein, I and my staff plan to meet with colleagues in the Senate, our counterparts in the other body, and with administration officials. I also plan to meet with State and local officials and private sector representatives.

By using a consensus-oriented approach, I hope that we can avoid extended debate on the Senate floor, and pass a bill with overwhelming support.

I encourage my colleagues to work with the committee as we begin this process and I look forward to an early resolution of this issue.●

By Mr. GORTON (for himself, Mr. AKAKA, Mr. D'AMATO, Mr. THURMOND, Mrs. KASSEBAUM, Mr. SHELBY, Mr. DECONCINI, Mr. BREAUX, and Mr. BRYAN):

S. 440. A bill to amend the Comprehensive Drug Abuse Prevention and Control Act of 1970 to control the diversion of certain chemicals used in the illicit production of controlled substances, to provide greater flexibility in the regulatory controls placed on the legitimate commerce in those chemicals, and for other purposes; to the Committee on the Judiciary.

CHEMICAL CONTROL AMENDMENTS ACT OF 1993

Mr. GORTON. Mr. President, I am pleased to introduce today, with Senators AKAKA, D'AMATO, THURMOND, KASSEBAUM, SHELBY, and DECONCINI the Chemical Control Amendments Act of 1993, a bill to control the diversion of certain chemicals used in the illicit production of controlled substances, and provide greater flexibility in the regulatory controls placed on the legitimate commerce in those chemicals. In short, this bill will provide law enforcement with the tools needed to combat the deadly spread of methamphetamine or ice. After years of effort, we have arrived at a noncontroversial proposal that is supported by Republicans and Democrats, chemical manufacturers, nonprescription drug manufacturers, the Drug Enforcement Administration, and local law enforcement agencies. With that kind of support, I urge my colleagues to join me quickly to enact this important measure into law.

We are familiar with the devastating effect of crack cocaine on our society. Less known is the widespread use and destructive capability of ice—which is to methamphetamine what crack is to cocaine. By many accounts, ice is far more devastating than crack and users are more violent. Users stay high for a longer period of time, usually from 16

to 18 hours, and sometimes for several days. Furthermore, ice can be produced almost anywhere, but most commonly in clandestine laboratories, known to many law enforcement officials as kitchens of death.

THE CLANDESTINE LABORATORY PROBLEM

Over 80 percent of all clandestine laboratories seized involved the production of methamphetamine. The clandestine laboratory problem is one involving the production of synthetic drugs, that is, methamphetamine, amphetamine, LSD, PCP, et cetera, which are produced from precursor chemicals. A precursor chemical is one which is actually incorporated into the molecule of the final drug product. Ephedrine is a precursor for methamphetamine since it becomes part of the methamphetamine molecule and ephedrine is the most commonly used precursor used to produce methamphetamine.

From 1981 to 1988, the Drug Enforcement Administration reported a 400-percent increase in the number of seizures of clandestine labs. In late August 1989, the Chemical Diversion and Trafficking Act [CDTA] went into effect and this trend was immediately reversed. The Chemical Diversion and Trafficking Act of 1988 was the first comprehensive legislative effort by a major nation to control the diversion of chemicals as an element of its effort to deal with the illicit drug problem. The CDTA demonstrated that this is an effective approach to drug control which can be implemented with modest administrative burdens to government and industry. Laboratory seizures declined to 521 in 1990 and to 375 in 1991. This decline has validated the effectiveness of chemical control as a law enforcement tool.

Two major weaknesses in the CDTA need to be remedied, however, if this success is to continue. The first is the legal drug exemption, set out at 21 U.S.C. 802(39)(A)(iv), which exempts a drug product which contains a listed chemical from the provisions of the act. The listed chemicals most affected by this provision are ephedrine, pseudoephedrine, and phenylpropanolamine, each of which is used in various over-the-counter [OTC] and prescription drug products.

Meanwhile, cooks, the operators of clandestine labs, continue to evade law enforcement and the spread of ice continues, particularly in the Western United States. In their wake, these chemical druglords leave destroyed lives, terrorized communities, and toxic remains. In fact, the health risks posed by the hazardous wastes of abandoned clandestine laboratories present nearly as serious a problem as the production of the drugs.

Many of these chemicals are highly toxic, explosive, and even radioactive. They are recklessly dumped into our streams, sewers, and on the ground—poisoning the land and ground water. As Paul Pierce, president of the Clandestine Laboratory Investigators Association and police officer with the city of Camas in Washington State, stated in testimony last year before the Judiciary Committee, "It should be understood from the beginning that every lab is an environmental nightmare."

In one of over 50 seizures of meth labs in the Northwest, Officer Pierce testified that his investigative unit discovered a lab in Skamania County in Washington State that had produced more than 80 pounds of methamphetamine. Behind the residence on a hillside, detectives found hundreds of buckets of waste buried in the ground. The hillside, which contained individual wells that served as the water source in the area, was spongy to walk on due to the amount of chemical waste.

At another lab site, a suspect was using a mobile home to manufacture drugs using mercuric chloride, containing mercury, and lead acetate, containing high concentrations of lead. For over a year the operator simply poured his waste out of the trailer and into a creek that fed a nearby county park swimming hole.

In yet another case, a suspect in eastern Clark County who had a lab in his five-bedroom home dumped his waste into his septic tank which overflowed and sent toxic chemicals into a nearby creek. The creek fed a local dairy farm and popular recreational lake.

If the devastation of drug abuse, the health risks of hazardous waste, and damage to the environment are not enough, I was appalled to discover recently that many local and State governments across the Nation discourage pursuit of meth lab operators because, by law, the local government is responsible for the extraordinary cleanup costs. Since, under Federal law, the seizing agency is considered the generator of the waste, it is liable for cleaning it up. This absurdity in the law penalizes the taxpayer rather than the clandestine lab operator, delays needed environmental cleanup, and exposes innocents to unknown health risks.

Even States like my State of Washington, which have enacted toxic control laws to address the damage done by meth labs, still pay an enormous price in cleanup costs. A member of the spill response unit of the Washington State Department of Ecology recently informed my office that of the approximately 200 lab cleanups he has been involved with over 4 years, the costs were recovered in only 1 case. At an average cost of $3,000 per cleanup, it is no wonder State and local governments have little incentive to pursue clandestine lab operators.

THE CHALLENGE

The plague of meth labs is due to the availability of legal chemicals that operators divert to produce illegal drugs. One option would be to treat these legal chemicals as controlled substances and forbid their production for any purpose. However, that would preclude the availability of the thousands of products that we take for granted every day. The first challenge is to find a method to control the diversion of legal chemicals without affecting the commerce of valuable and legal over-the-counter products. Second, we must make producers of illicit drugs liable for the cleanup costs of the waste they leave behind.

HISTORY OF LEGISLATIVE EFFORT

As you can imagine, meeting these challenges has been difficult to say the least. Since 1989, I and other Senators have made shutting down meth labs a top priority in the war on drugs. In 1989, after meeting with law enforcement officials in Washington State, I introduced S. 2651, the Precursor Chemical Regulation Act, which would regulate precursor chemicals used to make methamphetamines such as ice, require licenses for transactions in regulated chemicals, and impose environmental penalties for mismanagement of hazardous precursor chemicals. Senators Adams, Boschwitz, BURNS, COATS, DANFORTH, HATCH, HATFIELD, and Wilson joined as cosponsors. Their provisions were added to S. 1970, the 1990 crime bill, but were dropped in conference.

In 1991 I introduced with Senator AKAKA from Hawaii virtually the identical provisions of the earlier legislation as S. 1142, and I had intended to attach them to the 1991 crime bill. Instead, after consulting with the Drug Enforcement Administration, I introduced a more comprehensive package of precursor chemical amendments intended to build on and strengthen the principles underlying our Federal drug laws. In addition, the bill would have implemented several of the recommendations of the multinational chemical action task force convened in connection with the 1990 Houston economic summit. This new package was offered by this Senator and Senators AKAKA, BRYAN, D'AMATO, DECONCINI, BURNS, PACKWOOD, and BIDEN, the chairman of the Senate Judiciary Committee, as an amendment to S. 1241, the 1991 violent crime bill. This strong bipartisan support, along with the backing of the Drug Enforcement Administration and the Chemical Manufacturers Association, led to the adoption of the measure by voice vote.

Shortly, thereafter, I was contacted by the Nonprescription Drug Manufacturing Association, which has raised concerns about the legal drug exemption set forth in section 3102(c)(5). Under then current law, the legal drug exemption generally exempted from Federal drug enforcement laws pharmaceutical products which may be marketed or sold lawfully under the

Federal Food, Drug, and Cosmetic Act. The NDMA raised concerns that the original language of section 3102(c)(5) would unduly regulate legitimate pharmaceutical manufacturers whose products were not being diverted to the production of illicit drugs.

Finding its concerns valid and crucial to the best possible solution, I asked the NDMA to sit down with the DEA and CMA to find acceptable language. After months of often very difficult negotiations, an agreement was reached, and I informed conferees to the crime bill of that success. Although I understood that the changes would be adopted in the conference, the final report did not include the new agreement.

The bill I am introducing today, therefore, represents that extraordinary agreement and some minor technical improvements. The legitimate concerns of the Nonprescription Drug Manufacturers Association have been met. In fact NDMA recently raised an issue which applied to both Section 3—Registration—and Section 4—Reporting of Listed Chemical Manufacturing—of the new bill. The issue was that the distribution and manufacture of drug products containing listed chemicals which were exempt under certain provisions were not specifically exempted from the other sections. It had not been the intention of the DEA that exempt drug products be subject to these requirements and it was agreed that a specific statement to this effect would be added to both sections. This process, which has taken several years, finally has produced a result that only clandestine lab operators will regret.

This bill is precisely the same measure that I introduced last year as S. 3097 and H.R. 5717 which was introduced in the other Chamber by Congressman CHARLES SCHUMER of New York, the chairman of the House Subcommittee on Crime and Criminal Justice. S. 3097 was incorporated into the Biden-Thurmond Justice Improvements Act, a package of noncontroversial bills which passed during the last Congress. It is my hope and expectation that this legislation will once again be included in a noncontroversial crime package.

BILL HIGHLIGHTS

Specifically, the bill would provide for the following:

Section 2 eliminates the terms "Precursor Chemical" and "Essential Chemical" and replaces them with "List I Chemical" and "List II Chemical." This allows the DEA to focus degree of control on the nature of the diversion and use of the chemical rather than its status as a precursor or essential chemical. It also allows the DEA to transfer chemicals between lists if circumstances warrant greater or lesser control. In addition, this section makes U.S. chemical control law consistent with international nomenclature, expands the definitions of "Regulated Person" and "Regulated Transaction" to include brokers and traders, and modifies exemption for chemical mixtures to be consistent with the 1988 U.N. Convention.

This section also modifies the legal drug exemption. Specifically, it removes the exemption for products in which ephedrine is the only active medicinal agreement in therapeutic amounts. The DEA may remove by regulation the exemption for other drugs containing listed chemicals if it is determined that they are being diverted. In addition, this section contains specific criteria for determining that a drug containing a listed chemical is being diverted. Finally, manufacturers may apply to retain exemption for specific drug products if they can demonstrate that the drug product is manufactured and distributed in a way which prevents diversion.

Section 3 provides for regulation requirements for list I chemicals and applies to all distributors, importers, and exporters of list I chemicals. The requirements parallel those for registration to handle controlled substances. Those include the authority to revoke or deny based on public interest grounds as well as traditional grounds, immediate suspension in cases of imminent danger to the public health or safety, and criminal penalties for distribution, importation, or exportation without required registration. Registration is not required for distribution, importation, or exportation of drug products containing list I chemicals covered by the legal drug exemption.

Section 4 provides for the reporting of listed chemical manufacturing. All manufacturers will be required to submit annual reports on the total quantity of listed chemicals produced during the year. This reporting requirement does not apply to the manufacture of drug products containing list I chemicals covered by the legal drug exemption.

Section 5 requires brokers and traders to have the same recordkeeping and reporting requirements for international transactions as exporters and subjects them to the same criminal sanctions.

Section 6 provides for exemption authority and additional penalties. This will allow DEA to apply a target approach to export controls. Exports of some chemicals to certain countries—such as cocaine processing chemicals to the Andean countries—may be subject to 15-day advance notice even if the shipment is destined for a regular customer. Exports of some chemicals to certain countries—such as solvents to Canada—would not require 15-day advance notice even if the customer is not a regular customer.

This section also authorizes the DEA to reduce controls on the importation of specified chemicals by modifying or eliminating the advance notice requirement. A specific criminal penalty is added for individuals who attempt to evade reporting requirements by falsely claiming that a shipment is destined for a country for which a waiver of this requirement has been established. A specific criminal penalty for smuggling of listed chemicals is added.

Section 7 provides for amendments to list I. Three chemicals which were added by the Crime Control Act of 1990 are deleted. Two of them are precursors for substances not controlled under Federal law and the third is already listed as a controlled substance. Two chemicals which are used to illicitly manufacture the immediate precursor to methamphetamine are added to list I.

Section 8 provides for the elimination of regular supplier status and the creation of regular importer status. This will place the focus of control on the U.S. firm which imports a listed chemical. The present focus is on the foreign firm which supplied the chemical.

Section 9 provides for administrative inspections and authority. DEA's inspection authority is presently limited to places where records required under the CDTA are maintained. This amendment will expand this authority so that DEA will have the same inspection authority for listed chemicals as it presently has for controlled substances.

Section 10 clarifies the Attorney General's authority to eliminate thresholds for specific chemicals.

Perhaps most importantly, section 11 creates an additional felony if an individual violates the Solid Waste Disposal Act in the handling of chemicals used to illegally manufacture a controlled substance. In addition, the individual shall be responsible for the costs of cleanup and restoration.

Section 12 subjects listed chemicals to the same forfeiture provisions which apply to controlled substances.

Last, section 13 grants the DEA full access to all information in the national practitioners databank such as adverse State licensing actions and other reportable data. The DEA will utilize this information in determining whether to initiate administrative action against the practitioner's registration to handle controlled substances.

CONCLUSION

Obviously, this legislation when enacted into law will have a dramatic effect on the pursuit of meth lab operators and the destruction of clandestine laboratories. Indeed, perhaps it should be referred to as the "Ice Breaker Act of 1993." It is the culmination of years of effort, patience, dedication, and hard work by the Drug Enforcement Administration, the Chemical Manufacturers Association, and the Nonprescription Drug Manufacturers, and I commend

them for their commitment to good public policy.

Mr. President, I would like to ask unanimous consent to enter into the RECORD the full text of the Chemical Control Amendments Act of 1993, as well as letters of endorsement from the Drug Manufacturers Association, the Nonprescription Drug Manufacturers, and the Chemical Manufacturers Association. In addition, I would like to enter a letter from Officer Paul Pierce, president of the Clandestine Laboratories Investigators Association who states:

On behalf of them [CLIA] I wish to extend our enthusiastic support and endorsement for this legislation. It will result in a major weapon against the clandestine laboratory operator and more especially against the procurer and supplier of those chemicals without which an entire sector of domestically manufactured illegal drugs might just be eradicated.

With that powerful endorsement from the men and women who seize the labs, I wish to thank my colleagues who have joined as original cosponsors. I also wish to thank Chairman SCHUMER for his leadership on this important legislation. After years of work, I can say confidently that I expect this noncontroversial bill to pass easily and urge my colleagues to support it.

I ask unanimous consent that the following material appear in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 440

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Chemical Control Amendments Act of 1993".

SEC. 2. DEFINITION AMENDMENTS.

(a) DEFINITIONS.—Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended—

(1) in paragraph (33) by striking "any listed precursor chemical or listed essential chemical" and inserting "any list I chemical or any list II chemical";

(2) in paragraph (34)—

(A) by striking "listed precursor chemical" and inserting "list I chemical"; and

(B) by striking "critical to the creation" and inserting "important to the manufacturer";

(3) in paragraph (34) (A), (F), and (H), by inserting ", its esters" before "and";

(4) in paragraph (35)—

(A) by striking "listed essential chemical" and inserting "list II chemical";

(B) by inserting "(other than a list I chemical)" before "specified";

(C) by striking "as a solvent, reagent, or catalyst"; and

(5) in paragraph (38) by inserting "or who acts as a broker or trader for an international transaction involving a listed chemical, a tableting machine, or an encapsulating machine" before the period;

(6) in paragraph (39)(A)—

(A) by striking "importation or exportation of" and inserting "importation, or exportation of, or an international transaction involving shipment of,";

(B) in clause (iii) by inserting "or any category of transaction for a specific listed chemical or chemicals" after "transaction";

(C) by amending clause (iv) to read as follows:

"(iv) any transaction in a listed chemical that is contained in a drug that may be marketed or distributed lawfully in the United States under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) unless—

"(I)(aa) the drug contains ephedrine or its salts, optical isomers, or salts of optical isomers as the only active medicinal ingredient or contains ephedrine and therapeutically insignificant quantities of another active medicinal ingredient; or

"(bb) the Attorney General has determined under section 204 that the drug or group of drugs is being diverted to obtain the listed chemical for use in the illicit production of a controlled substance; and

"(II) the quantity of ephedrine or other listed chemical contained in the drug included in the transaction or multiple transactions equals or exceeds the threshold established for that chemical by the Attorney General."; and

(D) in clause (v) by striking the semicolon and inserting "which the Attorney General has by regulation designated as exempt from the application of this title and title II based on a finding that the mixture is formulated in such a way that it cannot be easily used in the illicit production of a controlled substance and that the listed chemical or chemicals contained in the mixture cannot be readily recovered;";

(7) in paragraph (40) by striking "listed precursor chemical or a listed essential chemical" each place it appears and inserting "list I chemical or a list II chemical"; and

(8) by adding at the end the following new paragraphs:

"(43) The term 'international transaction' means a transaction involving the shipment of a listed chemical across an international border (other than a United States border) in which a broker or trader located in the United States participates.

"(44) The terms 'broker' and 'trader' mean a person that assists in arranging an international transaction in a listed chemical by—

"(A) negotiating contracts;

"(B) serving as an agent or intermediary; or

"(C) bringing together a buyer and seller, buyer, and transporter, or a seller and transporter.".

(b) REMOVAL OF EXEMPTION OF CERTAIN DRUGS.—

(1) PROCEDURE.—Part B of the Controlled Substances Act (21 U.S.C. 811 et seq.) is amended by adding at the end the following new section:

"REMOVAL OF EXEMPTION OF CERTAIN DRUGS

"SEC. 204. (a) REMOVAL OF EXEMPTION.—The Attorney General shall by regulation remove from exemption under section 102(39)(A)(iv)(II) a drug or group of drugs that the Attorney General finds is being diverted to obtain a listed chemical for use in the illicit production of a controlled substance.

"(b) FACTORS TO BE CONSIDERED.—In removing a drug or group of drugs from exemption under subsection (a), the Attorney General shall consider, with respect to a drug or group of drugs that is proposed to be removed from exemption—

"(1) the scope, duration, and significance of the diversion;

"(2) whether the drug or group of drugs is formulated in such a way that it cannot be easily used in the illicit production of a controlled substance; and

"(3) whether the listed chemical can be readily recovered from the drug or group of drugs.

"(c) SPECIFICITY OF DESIGNATION.—The Attorney General shall limit the designation of a drug or a group of drugs removed from exemption under subsection (a) to the most particularly identifiable type of drug or group of drugs for which evidence of diversion exists unless there is evidence, based on the pattern of diversion and other relevant factors, that the diversion will not be limited to that particular drug or group of drugs.

"(d) REINSTATEMENT OF EXEMPTION WITH RESPECT TO PARTICULAR DRUG PRODUCTS.—

"(1) REINSTATEMENT.—On application by a manufacturer of a particular drug product that has been removed from exemption under subsection (a), the Attorney General shall by regulation reinstate the exemption with respect to that particular drug product if the Attorney General determines that the particular drug product is manufactured and distributed in a manner that prevents diversion.

"(2) FACTORS TO BE CONSIDERED.—In deciding whether to reinstate the exemption with respect to a particular drug product under paragraph (1), the Attorney General shall consider—

"(A) the package sizes and manner of packaging of the drug product;

"(B) the manner of distribution and advertising of the drug product;

"(C) evidence of diversion of the drug product;

"(D) any actions taken by the manufacturer to prevent diversion of the drug product; and

"(E) such other factors as are relevant to and consistent with the public health and safety, including the factors described in subsection (b) as applied to the drug product.

"(3) STATUS PENDING APPLICATION FOR REINSTATEMENT.—A transaction involving a particular drug product that is the subject of a bona fide pending application for reinstatement of exemption filed with the Attorney General not later than 60 days after a regulation removing the exemption is issued pursuant to subsection (a) shall not be considered to be a regulated transaction if the transaction occurs during the pendency of the application and, if the Attorney General denies the application, during the period of 60 days following the date on which the Attorney General denies the application, unless—

"(A) the Attorney General has evidence that, applying the factors described in subsection (b) to the drug product, the drug product is being diverted; and

"(B) the Attorney General so notifies the applicant.

"(4) AMENDMENT AND MODIFICATION.—A regulation reinstating an exemption under paragraph (1) may be modified or revoked with respect to a particular drug product upon a finding that—

"(A) applying the factors described in subsection (b) to the drug product, the drug product is being diverted; or

"(B) there is a significant change in the data that led to the issuance of the regulation.".

(2) TECHNICAL AMENDMENT.—The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (84 Stat. 1236) is amended by adding at the end of the section relating to part B of title II the following new item:

"Sec. 204. Removal of exemption of certain drugs.".

(c) REGULATION OF LISTED CHEMICALS.—Section 310 of the Controlled Substances Act (21 U.S.C. 830) is amended—

(1) in subsection (a)(1)—

(A) by striking "precursor chemical" and inserting "list I chemical"; and

(B) in subparagraph (B) by striking "an essential chemical" and inserting "a list II chemical"; and

(2) in subsection (c)(2)(D) by striking "precursor chemical" and inserting "chemical control".

SEC. 3. REGISTRATION REQUIREMENTS.

(a) RULES AND REGULATIONS.—Section 301 of the Controlled Substances Act (21 U.S.C. 821) is amended by striking the period and inserting "and to the registration and control of regulated persons and of regulated transactions.".

(b) PERSONS REQUIRED TO REGISTER UNDER SECTION 302.—Section 302 of the Controlled Substances Act (21 U.S.C. 822) is amended—

(1) in subsection (a)(1) by inserting "or list I chemical" after "controlled substance" each place it appears;

(2) in subsection (b)—

(A) by inserting "or list I chemicals" after "controlled substances"; and

(B) by inserting "or chemicals" after "such substances";

(3) in subsection (c) by inserting "or list I chemical" after "controlled substance" each place it appears; and

(4) in subsection (e) by inserting "or list I chemicals" after "controlled substances".

(c) REGISTRATION REQUIREMENTS UNDER SECTION 303.—Section 303 of the Controlled Substances Act (21 U.S.C. 823) is amended by adding at the end the following new subsection:

"(h) The Attorney General shall register an applicant to distribute a list I chemical unless the Attorney General determines that registration of the applicant is inconsistent with the public interest. Registration under this subsection shall not be required for the distribution of a drug product that is exempted under section 102(39)(A)(iv). In determining the public interest for the purposes of this subsection, the Attorney General shall consider—

"(1) maintenance by the applicant of effective controls against diversion of listed chemicals into other than legitimate channels;

"(2) compliance by the applicant with applicable Federal, State and local law;

"(3) any prior conviction record of the applicant under Federal or State laws relating to controlled substances or to chemicals controlled under Federal or State law;

"(4) any past experience of the applicant in the manufacture and distribution of chemicals; and

"(5) such other factors as are relevant to and consistent with the public health and safety.".

(d) DENIAL, REVOCATION, OR SUSPENSION OF REGISTRATION.—Section 304 of the Controlled Substances Act (21 U.S.C. 824) is amended—

(1) in subsection (a)—

(A) by inserting "or a list I chemical" after "controlled substance" each place it appears; and

(B) by inserting "or list I chemicals" after "controlled substances";

(2) in subsection (b) by inserting "or list I chemical" after "controlled substance";

(3) in subsection (f) by inserting "or list I chemicals" after "controlled substances" each place it appears; and

(4) in subsection (g)—

(A) by inserting "or list I chemicals" after "controlled substances" each place it appears; and

(B) by inserting "or list I chemical" after "controlled substance" each place it appears.

(e) PERSONS REQUIRED TO REGISTER UNDER SECTION 1007.—Section 1007 of the Controlled Substances Import and Export Act (21 U.S.C. 957) is amended—

(1) in subsection (a)—

(A) in paragraph (1) by inserting "or list I chemical" after "controlled substance"; and

(B) in paragraph (2) by striking "in schedule I, II, III, IV, or V," and inserting "or list I chemical,"; and

(2) in subsection (b)—

(A) in paragraph (1) by inserting "or list I chemical" after "controlled substance" each place it appears; and

(B) in paragraph (2) by inserting "or list I chemicals" after "controlled substances".

(f) REGISTRATION REQUIREMENTS UNDER SECTION 1008.—Section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958) is amended—

(1) in subsection (c)—

(A) by inserting "(1)" after "(c)"; and

(B) by adding at the end the following new paragraph:

"(2)(A) The Attorney General shall register an applicant to import or export a list I chemical unless the Attorney General determines that registration of the applicant is inconsistent with the public interest. Registration under this subsection shall not be required for the import or export of a drug product that is exempted under section 102(39)(A)(iv).

"(B) In determining the public interest for the purposes of subparagraph (A), the Attorney General shall consider the factors specified in section 303(h).";

(2) in subsection (d)—

(A) in paragraph (3) by inserting "or list I chemical or chemicals," after "substances,"; and

(B) in paragraph (6) by inserting "or list I chemicals" after "controlled substances" each place it appears;

(3) in subsection (e) by striking "and 307" and inserting "307, and 310"; and

(4) in subsections (f), (g), and (h) by inserting "or list I chemicals" after "controlled substances" each place it appears.

(g) PROHIBITED ACTS C.—Section 403(a) of the Controlled Substances Act (21 U.S.C. 843(a)) is amended—

(1) by striking "or" at the end of paragraph (7);

(2) by striking the period at the end of paragraph (8) and inserting "; or"; and

(3) by adding at the end the following new paragraph:

"(9) if the person is a regulated person, to distribute, import, or export a list I chemical without the registration required by this Act.".

SEC. 4. REPORTING OF LISTED CHEMICAL MANUFACTURING.

Section 310(b) of the Controlled Substances Act (21 U.S.C. 830(b)) is amended—

(1) by inserting "(1)" after "(b)";

(2) by redesignating paragraphs (1), (2), (3), and (4) as subparagraphs (A), (B), (C), and (D), respectively;

(3) by striking "paragraph (1)" each place it appears and inserting "subparagraph (A)";

(4) by striking "paragraph (2)" and inserting "subparagraph (B)";

(5) by striking "paragraph (3)" and inserting "subparagraph (C)"; and

(6) by adding at the end the following new paragraph:

"(2) A regulated person that manufactures a listed chemical shall report annually to the Attorney General, in such form and manner and containing such specific data as the Attorney General shall prescribe by regulation, information concerning listed chemicals manufactured by the person. The requirement of the preceding sentence shall not apply to the manufacture of a drug product that is exempted under section 102(39)(A)(iv).".

SEC. 5. REPORTS BY BROKERS AND TRADERS; CRIMINAL PENALTIES.

(a) NOTIFICATION, SUSPENSION OF SHIPMENT, AND PENALTIES WITH RESPECT TO IMPORTATION AND EXPORTATION OF LISTED CHEMICALS.—Section 1018 of the Controlled Substances Import and Export Act (21 U.S.C. 971) is amended by adding at the end the following new subsection:

"(d) A person located in the United States who is a broker or trader for an international transaction in a listed chemical that is a regulated transaction solely because of that person's involvement as a broker or trader shall, with respect to that transaction, be subject to all of the notification, reporting, recordkeeping, and other requirements placed upon exporters of listed chemicals by this title and title II.".

(b) PROHIBITED ACTS A.—Section 1010(d) of the Controlled Substances Import and Export Act (21 U.S.C. 960(d)) is amended to read as follows:

"(d) A person who knowingly or intentionally—

"(1) imports or exports a listed chemical with intent to manufacture a controlled substance in violation of this title or title II;

"(2) exports a listed chemical in violation of the laws of the country to which the chemical is exported or serves as a broker or trader for an international transaction involving a listed chemical, if the transaction is in violation of the laws of the country to which the chemical is exported;

"(3) imports or exports a listed chemical knowing, or having reasonable cause to believe, that the chemical will be used to manufacture a controlled substance in violation of this title or title II; or

"(4) exports a listed chemical, or serves as a broker or trader for an international transaction involving a listed chemical, knowing, or having reasonable cause to believe, that the chemical will be used to manufacture a controlled substance in violation of the laws of the country to which the chemical is exported,

shall be fined in accordance with title 18, imprisoned not more than 10 years, or both.".

SEC. 6. EXEMPTION AUTHORITY; ADDITIONAL PENALTIES.

(a) NOTIFICATION REQUIREMENT.—Section 1018 of the Controlled Substances Import and Export Act (21 U.S.C. 971), as amended by section 5(a), is amended by adding at the end the following new subsection:

"(e)(1) The Attorney General may by regulation require that the 15-day notification requirement of subsection (a) apply to all exports of a listed chemical to a specified country, regardless of the status of certain customers in such country as regular customers, if the Attorney General finds that such notification is necessary to support effective chemical diversion control programs or is required by treaty or other international agreement to which the United States is a party.

"(2) The Attorney General may by regulation waive the 15-day notification requirement for exports of a listed chemical to a specified country if the Attorney General determines that such notification is not required for effective chemical diversion con-

trol. If the notification requirement is waived, exporters of the listed chemical shall be required to submit to the Attorney General reports of individual exportations or periodic reports of such exportation of the listed chemical, at such time or times and containing such information as the Attorney General shall establish by regulation.

"(3) The Attorney General may by regulation waive the 15-day notification requirement for the importation of a listed chemical if the Attorney General determines that such notification is not necessary for effective chemical diversion control. If the notification requirement is waived, importers of the listed chemical shall be required to submit to the Attorney General reports of individual importations or periodic reports of the importation of the listed chemical, at such time or times and containing such information as the Attorney General shall establish by regulation.".

(b) PROHIBITED ACTS A.—Section 1010(d) of the Controlled Substances Import and Export Act (21 U.S.C. 960(d)), as amended by section 5(b),. is amended—

(1) by striking "or" at the end of paragraph (3);

(2) by striking the comma at the end of paragraph (4) and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

"(5) imports or exports a listed chemical, with the intent to evade the reporting or recordkeeping requirements of section 1018 applicable to such importation or exportation by falsely representing to the Attorney General that the importation or exportation qualifies for a waiver of the 15-day notification requirement granted pursuant to section 1018(e) (2) or (3) by misrepresenting the actual country of final destination of the listed chemical or the actual listed chemical being imported or exported; or

"(6) imports or exports a listed chemical in violation of section 1007 or 1018,".

SEC. 7. AMENDMENTS TO LIST I.

Section 102(34) of the Controlled Substances Act (21 U.S.C. 802(34)) is amended—

(1) by striking subparagraphs (O), (U), and (W);

(2) by redesignating subparagraphs (P) through (T) as (O) through (S), subparagraph (V) as (T), and subparagraphs (X) and (Y) as (U) and (X), respectively;

(3) in subparagraph (X), as redesignated by paragraph (2), by striking "(X)" and inserting "(U)"; and

(4) by inserting after subparagraph (U), as redesignated by paragraph (2), the following new subparagraphs:

"(V) benzaldehyde.

"(W) nitroethane.".

SEC. 8. ELIMINATION OF REGULAR SUPPLIER STATUS AND CREATION OF REGULAR IMPORTER STATUS.

(a) DEFINITION.—Section 102(37) of the Controlled Substances Act (21 U.S.C. 802(37)) is amended to read as follows:

"(37) The term 'regular importer' means, with respect to a listed chemical, a person that has an established record as an importer of that listed chemical that is reported to the Attorney General.".

(b) NOTIFICATION.—Section 1018 of the Controlled Substances Act (21 U.S.C. 971) is amended—

(1) in subsection (b)—

(A) in paragraph (1) by striking "regular supplier of the regulated person" and inserting "to an importation by a regular importer"; and

(B) in paragraph (2)—

(i) by striking "a customer or supplier of a regulated person" and inserting "a customer of a regulated person or to an importer"; and

(ii) by striking "regular supplier" and inserting "the importer as a regular importer"; and

(2) in subsection (c)(1) by striking "regular supplier" and inserting "regular importer".

SEC. 9. ADMINISTRATIVE INSPECTIONS AND AUTHORITY.

Section 510 of the Controlled Substances Act (21 U.S.C. 880) is amended—

(1) by amending subsection (a)(2) to read as follows:

"(2) places, including factories, warehouses, and other establishments, and conveyances, where persons registered under section 303 (or exempt from registration under section 302(d) or by regulation of the Attorney General) or regulated persons may lawfully hold, manufacture, distribute, dispense, administer, or otherwise dispose of controlled substances or listed chemicals or where records relating to those activities are maintained."; and

(2) in subsection (b)(3)—

(A) in subparagraph (B) by inserting ", listed chemicals," after "unfinished drugs"; and

(B) in subparagraph (C) by inserting "or listed chemical" after "controlled substance" and inserting "or chemical" after "such substance".

SEC. 10. THRESHOLD AMOUNTS.

Section 102(39)(A) of the Controlled Substances Act (21 U.S.C. 802(39)(A)), as amended by section 2, is amended by inserting "of a listed chemical, or if the Attorney General establishes a threshold amount for a specific listed chemical," before "a threshold amount, including a cumulative threshold amount for multiple transactions".

SEC. 11. MANAGEMENT OF LISTED CHEMICALS.

(a) IN GENERAL.—Part C of the Controlled Substances Act (21 U.S.C. 821 et seq.) is amended by adding at the end the following new section:

"MANAGEMENT OF LISTED CHEMICALS

"SEC. 311. (a) OFFENSE.—It is unlawful for a person who possesses a listed chemical with the intent that it be used in the illegal manufacture of a controlled substance to manage the listed chemical or waste from the manufacture of a controlled substance otherwise than as required by regulations issued under sections 3001, 3002, 3003, 3004, and 3005 of the Solid Waste Disposal Act (42 U.S.C. 6921, 6922, 6923, 6924, and 6925).

"(b) ENHANCED PENALTY.—(1) In addition to a penalty that may be imposed for the illegal manufacture, possession, or distribution of a listed chemical or toxic residue of a clandestine laboratory, a person who violates subsection (a) shall be assessed the costs described in paragraph (2) and shall be imprisoned as described in paragraph (3).

"(2) Pursuant to paragraph (1) a defendant shall be assessed the following costs to the United States, a State, or another authority or person that undertakes to correct the results of the improper management of a listed chemical:

"(A) The cost of initial cleanup and disposal of the listed chemical and contaminated property.

"(B) The cost of restoring property that is damaged by exposure to a listed chemical for rehabilitation under Federal, State, and local standards.

"(3)(A) A violation of subsection (a) shall be punished as a class D felony, or in the case of a willful violation, as a class C felony.

"(B) It is the sense of the Congress that guidelines issued by the Sentencing Commission regarding sentencing under this paragraph should recommend that the term of imprisonment for a violation of subsection (a) should not be less than 5 years, nor less than 10 years in the case of a willful violation.

"(4) A court may order that all or a portion of the earnings from work performed by a defendant in prison be withheld for payment of costs assessed under paragraph (2).

"(c) USE OF FORFEITED ASSETS.—The Attorney General may direct that assets forfeited under section 511 in connection with a prosecution under this section be shared with State agencies that participated in the seizure or cleaning up of a contaminated site.".

(b) EXCEPTION TO DISCHARGE IN BANKRUPTCY.—Section 523(a) of title 11, United States Code, is amended—

(1) by striking "or" at the end of paragraph (11);

(2) by striking the period at the end of paragraph (12) and inserting "; or"; and

(3) by adding at the end the following new paragraph:

"(13) for costs assessed under section 311(b) of the Controlled Substances Act.".

SEC. 12. FORFEITURE EXPANSION.

Section 511(a) of the Controlled Substances Act (21 U.S.C. 881(a)) is amended—

(1) in paragraph (6) by inserting "or listed chemical" after "controlled substance"; and

(2) in paragraph (9) by striking "a felony provision of".

SEC. 13. ATTORNEY GENERAL ACCESS TO THE NATIONAL PRACTITIONER DATA BANK.

Part B of the Health Care Quality Improvement Act of 1986 (42 U.S.C. 11131 et seq.) is amended by adding at the end the following new section:

"SEC. 428. DISCLOSURE OF INFORMATION TO THE ATTORNEY GENERAL.

"Information respecting physicians or other licensed health care practitioners reported to the Secretary (or to the agency designated under section 424(b)) under this part or section 1921 of the Social Security Act (42 U.S.C. 1396r-2) shall be provided to the Attorney General. The Secretary shall—

"(1) transmit to the Attorney General such information as the Attorney General may designate or request to assist the Drug Enforcement Administration in the enforcement of the Controlled Substances Act (21 U.S.C. 801 et seq.) and other laws enforced by the Drug Enforcement Administration; and

"(2) transmit such information related to health care providers as the Attorney General may designate or request to assist the Federal Bureau of Investigation in the enforcement of title 18, the Act entitled 'An Act to regulate the practice of pharmacy and the sale of poison in the consular districts of the United States in China', approved March 3, 1915 (21 U.S.C. 201 et seq.), and chapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351 et seq.).".

SEC. 14. REGULATIONS AND EFFECTIVE DATE.

(a) REGULATIONS.—The Attorney General shall, not later than 90 days after the date of enactment of this Act, issue regulations necessary to carry out this Act.

(b) EFFECTIVE DATE.—This Act and the amendments made by this Act shall become effective on the date that is 120 days after the date of enactment of this Act.

U.S. DEPARTMENT OF JUSTICE,
DRUG ENFORCEMENT ADMINISTRATION,
Washington, DC, July 22, 1992.

Hon. SLADE GORTON,
U.S. Senate, Washington, DC.

DEAR SENATOR GORTON: The purpose of this letter is to confirm the complete support of this agency for your bill entitled the Chemical Control Amendments Act of 1992. Representatives of this agency have worked diligently with your staff in the development of this legislation which will greatly enhance our ability to deal with the problems of chemical diversion. The results of our activities in this area under our current limited authority have demonstrated that chemical control is an extremely effective mechanism with which to deal with the illicit production of drugs. The provisions contained in your bill address specific weaknesses in our law which are being exploited by individuals who require precursor and essential chemicals to produce drugs which plague our society. I thank you for your sponsorship of this legislation which we feel is critical to the mission of this agency.

Very truly yours,

ROBERT C. BONNER,
Administrator of Drug Enforcement.

NONPRESCRIPTION DRUG
MANUFACTURERS ASSOCIATION,
Washington, DC, July 22, 1992.

Hon. SLADE GORTON,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR GORTON: The Drug Enforcement Administration (DEA), the Chemical Manufacturers Association (CMA) and the Nonprescription Drug Manufacturers Association (NDMA) have worked closely with Senator Slade Gorton and his staff and other members of the Senate and House of Representatives in drafting the Chemical Control Amendments Act of 1992. This legislation will provide federal enforcement agencies with needed tools to more effectively identify and deal with individuals and companies that are using precursor and other chemicals for the illicit manufacture and distribution of controlled substances such as methamphetamines. The bill recognizes that these same chemicals are essential in producing many useful commodities and are contained in literally hundreds of prescription and over-the-counter medications. The legislation therefore limits the regulatory burdens placed on legitimate chemical manufacturers and distributors and exempts from the controls of the Act drug products that may be lawfully marketed in the United States.

The NDMA strongly supports prompt enactment of the Chemical Control Amendments Act of 1992.

Sincerely,

J. ROBERT BROUSE,
Vice President, Government Relations.

CHEMICAL MANUFACTURERS
ASSOCIATION,
Washington, DC, July 22, 1992.

Hon. SLADE GORTON,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR GORTON: The Chemical Manufacturers Association (CMA) wishes to convey its strong support for legislation you intend to introduce, the "Chemical Control Amendments Act of 1992." CMA has actively worked with your staff and the Drug Enforcement Administration (DEA) to prevent the diversion of certain precursor and essential chemicals critical to the manufacture of illicit drugs. Your proposal will provide the Federal Government the authority necessary to effectively control diversions of legitimate chemical shipments which we wholeheartedly support.

CMA is a non-profit trade association whose member companies represent 90 percent of the productive capacity for basic industrial chemicals in the United States. CMA and its member companies are committed to doing their part in helping eliminate illicit drugs at their source. The cooperative effort first made by the chemical industry and the government in enacting the Chemical Diversion and Trafficking Act of 1988 has served as a model for preventing the diversion of chemical shipments to illegal drug production.

CMA and its member companies look forward to continuing their work with Congress and the Administration to stem the diversion of chemicals to the manufacture of illicit drugs. If you have any questions concerning CMA's position, please have a member of your staff contact Claude P. Bondrias, Legislative Representative, Tax and Trade, at (202) 887-1138 or Michael P. Walls, CMA Assistant General Counsel, at (202) 887-1170.

Sincerely,

ROBERT A. ROLAND,
President.

CLANDESTINE LABORATORY
INVESTIGATORS ASSOCIATION,
Washington, DC, July 22, 1992.

DEAR SENATOR GORTON: I have spent the past two days reviewing the "Chemical Control Amendments Act of 1992" with the members of our organization from across the nation. These members are the Criminal Justice Enforcement men and women who are on the front lines of the war against drugs.

On behalf of them I wish to extend our enthusiastic support and endorsement for this legislation. It will result in a major weapon against the Clandestine Laboratory Operator and more especially against the procurer and supplier of those chemicals without which an entire sector of domestically manufactured illegal drugs might just be eradicated.

It is our considered opinion, based on the vast experience of our members, that once these laws are in effect the illegally procured chemicals purchased through semi-legitimate companies will finally begin to dry up. It gives us the tools to shut down these sources which have operated with impunity on the fringes of the law for so long.

And perhaps more importantly the shackles of cleanup costs which have hampered so many local and state agencies in their efforts to battle these illegal laboratories will finally be placed on the individuals responsible for the chemical devastation. These people are responsible not only for the pollution of entire sectors of our society with their drugs, but they are equally responsible for mini-love canals across out nation, in our rivers, forests, parks, and air. It will be many years before we know the true cost of this indiscriminate dumping of chemical wastes.

We not only fully endorse this legislation and its intent but wish further to commend you personally for your years of unselfish commitment to the war against these chemical terrorists and their "kitchens of death."

Sincerely,

PAUL J. PEARCE.

By Mr. CAMPBELL:

S. 441. A bill to amend title 18, United States Code, to provide a mandatory minimum sentence for the unlawful possession of a firearm by a convicted felon, a fugitive from justice, a person who is addicted to, or an unlawful user of, a controlled substance, or a transferor or receiver of a stolen firearm, to increase the general penalty for a violation of Federal firearms laws, and to increase the enhanced penalties provided for the possession of a firearm in connection with a crime of violence or drug trafficking crime, and for other purposes; to the Committee on the Judiciary.

THE FELON GUN PENALTY ACT

Mr. CAMPBELL. Mr. President, last week President Clinton addressed the Congress and asked us to pass tough crime legislation. I rise today to introduce a bill that I believe will help reduce our unacceptable rate of crime committed with firearms.

I know my colleagues have participated in many discussions, and with some passion on many occasions, regarding control and dealing with firearms. This contentious issue evokes very strong emotions, and I have been involved with some of those debates myself.

On both sides of the issue our desire is the same end, and that is the reduction of crime in our streets.

Crime is festering in our Nation and plaguing our cities. As noted just a couple of weeks ago after the shootings in front of the CIA building, no one is exempt from it. Over 15,000 murders were committed last year with firearms, and 250,000 Americans were victims of aggravated assaults with firearms in the last year.

We certainly here in the Capitol are not immune from crime. Many of our colleagues have been attacked in the streets, and their families have, too, by people who are carrying firearms.

Today I introduce legislation, the Felon Gun Penalty Act, to amend existing laws regarding the penalties for certain existing offenses. These penalties would be increased for criminals and others who wrongfully use and possess firearms, acting as a deterrent for those who prey upon law-abiding citizens.

This act does three things. First, it provides for a mandatory minimum sentence of 5 years without opportunity for parole for the unlawful possession of a firearm by a convicted felon, a fugitive from justice, a person who is an unlawful user of or addicted to a controlled substance. Currently there is no such mandatory penalty existing for these offenses.

Second, it increases the general penalty for violation of Federal firearms laws from the present discretionary 5 years to a doubling, a 10-year sentencing and a $10,000 fine.

Finally, it increases the enhanced penalties for possession of a firearm in connection with a crime of violence or drug trafficking to 10 years for a first offense, and to 30 years for a second offense without the chance of parole.

While this legislation is similar in certain aspects to provisions of other crime-fighting bills, it differs in one important aspect. Many proposals only address crimes involving semiautomatic assault weapons. While it is true that we have recently seen an increase in crimes involving these weapons, the fact remains that over 90 percent of all firearms-related crimes involve weapons are other than assault rifles.

Therefore, I think it is significant that the penalties called for under this act apply to all violators of Federal firearms laws regardless of the type of weapon that is used.

I ask unanimous consent, Mr. President, that a copy of my bill be placed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 441

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MANDATORY MINIMUM SENTENCE FOR UNLAWFUL POSSESSION OF A FIREARM BY CONVICTED FELON, FUGITIVE FROM JUSTICE, ADDICT OR UNLAWFUL USER OF CONTROLLED SUBSTANCE, OR TRANSFEROR OR RECEIVER OF STOLEN FIREARM.

Section 924(a) of title 18, United States Code, is amended by inserting ", and in the case of a violation of section 922 (g) (1), (2), or (3), (i), or (j) shall be imprisoned not less than 5 years" before the period.

SEC. 2. INCREASE IN GENERAL PENALTY FOR VIOLATION OF FEDERAL FIREARMS LAWS.

Section 924(a)(1) of title 18, United States Code, is amended—

(1) by striking "$5,000" and inserting "$10,000; and

(2) by striking "five" and inserting "10".

SEC. 3. INCREASE IN ENHANCED PENALTIES FOR POSSESSION OF FIREARM IN CONNECTION WITH CRIME OF VIOLENCE OR DRUG TRAFFICKING CRIME.

Section 924(c)(1) of title 18, United States Code, is amended—

(1) by striking "five" and inserting "10"; and

(2) by striking "twenty" and inserting "30".

SEC. 4 TECHNICAL CORRECTION.

Section 924(a)(1) of title 18, United States Code, is amended by striking "(2) or (3)" and inserting "(2), (3), or (4)".

By Mr. BINGAMAN:

S. 442. A bill to provide for the maintenance of dams located in Indian lands by the Bureau of Indian Affairs or through contracts with Indian tribes; to the Committee on Indian Affairs.

INDIAN DAMS SAFETY ACT OF 1993

• Mr. BINGAMAN. Mr. President, I rise today to introduce a bill which addresses critical safety issues at a number of dams located on American Indian lands. Many of these dams have problems with the integrity of dam structures, increasing seepage, and accelerated bank erosion. These problems could lead to a failure of the dam and the loss of lives and property on several Indian reservations throughout the State.

A dam safety program on Department of the Interior lands was originally mandated by a secretarial order in February, 1980. This order established and assigned responsibilities for agencies within the Department to carry out a program of dam safety inspections, using Bureau of Reclamation classification standards, and further mandated that the agencies take whatever measures were necessary to prevent dam failures which threatened the loss of life or property. Despite this, the Bureau of Indian Affairs [BIA] had no program or administrative organization in place until 1991 to provide for the maintenance of dams, even though additional Federal guidelines and BIA policy require that agency officials ensure that dams are properly maintained.

Due to the lack of a comprehensive dam safety program, the BIA has not carried out a timely program of correcting the serious deficiencies revealed in the 1989 report prepared by the Department's inspector general. Today, at least 7 of the 22 BIA administered dams in my home State of New Mexico have been identified as containing structural problems which classifies them as presenting high or significant hazards to human life and property in the event of failure. Mr. President, it is of deep concern to me that these dams have not been repaired nor sufficient measures taken by the BIA to initiate this repair.

This dangerous situation has three basic causes. First, the Secretary's Dam Safety Program has not been given a sufficiently high priority within the BIA. Second, BIA continues to allow the unrestricted use of unsafe dams. And, third, BIA either doesn't have, or has not used, available engineering and fiscal resources to work on problem dams.

In addition to threats to human safety and property, BIA inaction has resulted in increased maintenance costs for the current inventory of dams, as well as increasing the costs of correcting critical problems.

To correct this situation and hopefully avert a human and material tragedy, I am introducing legislation which will provide for the immediate inventory of dams on Indian lands, the classification of all dams using Bureau of Reclamation safety standards, and the timely repair of unsafe conditions at targeted dams.

Equally important, this legislation calls for the establishment of a dam safety, operation, and maintenance program within the BIA. The goal of this measure is to create, within the BIA, a long-term dam safety management program similar to programs currently in place within the Bureau of Reclamation and the Army Corps of Engineers. Once the immediate life threatening problems at a dam have been identified and repaired, that dam will be monitored to insure its continued safety.

My bill also permits the Secretary of the Interior to enter into memoranda of understanding with other appropriate Federal agencies, including the Bureau of Reclamation and the Army Corps of Engineers, to provide any technical expertise needed to implement an effective dam safety program.

It is also important to note that the work authorized under this Act will be for the purpose of responding to problems of dam safety, and not to increase the conservation storage capacity of dams or otherwise increase the benefits of the original dams and reservoirs.

In order to promote increased involvement of American Indians in the management of dams on their own lands, this legislation authorizes the Secretary to contract with appropriate Indian tribes to carry out elements of the dam safety operation and maintenance program.

Mr. President, the scope of this problem extends well beyond the boundaries of New Mexico. The inspector general's report revealing major problems with New Mexico dams indicated at least 19 dams in neighboring States have similar problems. I urge my colleagues to join me in supporting this legislation. We must move quickly to avert disaster to life and property.

Mr. President, I ask unanimous consent that the text of this bill be placed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 442

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Indian Dams Safety Act of 1993".

SEC. 2. FINDINGS.

The Congress finds that—

(1) in 1980, the Secretary of the Interior established a department-wide dam safety program to correct deficiencies identified by inspections of dams;

(2) the Bureau of Indian Affairs (hereafter referred to in this Act as the "BIA") did not make timely progress toward accomplishing the objectives of the dam safety program and, as a result, 53 dams on Indian lands are considered to present a high hazard to human life in the event of failure;

(3) unsafe BIA dams continue to pose an imminent threat to people and property because the dam safety program has not been given a sufficiently high priority either by the BIA or by the Congress;

(4) until 1991, the BIA did not have an adequate program to ensure proper periodic maintenance of dams under its jurisdiction and structural problems have often led to seepage and accelerated bank erosion, as well as other unsafe conditions;

(5) safe working dams are necessary on Indian lands to supply irrigation water, to provide flood control, to provide water for municipal, industrial, domestic, livestock, and recreation uses, and for fish and wildlife habitats;

(6) because of inadequate attention in the past to regular maintenance requirements of BIA dams, the costs for needed repairs and future maintenance are significantly increased;

(7) many dams have operation and maintenance deficiencies regardless of their current safety condition classification and the deficiencies must be corrected to avoid future threats to human life and property; and

(8) it is necessary to institute a regular dam maintenance and repair program, utilizing expertise either within the BIA, the Indian tribal governments, or other Federal agencies.

SEC. 3. DEFINITIONS.

For the purposes of this Act:

(1) INDIAN TRIBES.—The term "Indian tribes" has the meaning given such term in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)).

(2) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(3) DAM SAFETY PROGRAM.—The term "dam safety program" means the program established by the Secretary of Interior by order dated February 28, 1980, to prevent dam failure and the resulting loss of life or serious property damage.

(4) DAM SAFETY OPERATION AND MAINTENANCE PROGRAM.—The term "dam safety operation and maintenance program" means the program established under section 4 of this Act.

(5) DAM SAFETY CONDITION CLASSIFICATIONS.—The term "dam safety condition classifications" means the following classifications cited in the Bureau of Reclamation glossary of dam safety terms:

(A) SATISFACTORY.—No existing or potential dam safety deficiencies are recognized. Safe performance is expected under all anticipated conditions.

(B) FAIR.—No existing dam safety deficiencies are recognized for normal loading conditions. Infrequent hydrologic or seismic events would probably result in a dam safety deficiency.

(C) CONDITIONALLY POOR.—A potential dam safety deficiency is recognized for unusual loading conditions that may realistically occur during the expected life of the structure.

(D) POOR.—A potential dam safety deficiency is clearly recognized for normal loading conditions. Immediate actions to resolve the deficiency are recommended; reservoir restrictions may be necessary until resolution of the problem.

(E) UNSATISFACTORY.—A dam safety deficiency exists for normal loading conditions. Immediate remedial action is required for resolution of the problem.

SEC. 4. ACTIONS BY SECRETARY.

(a) ESTABLISHMENT OF DAM SAFETY OPERATION AND MAINTENANCE PROGRAM.—The Secretary shall establish a dam safety operation and maintenance program within the BIA to ensure the regular, recurring, routine maintenance, examination, and monitoring of the condition of each dam identified pursuant to subsection (c) necessary to maintain the dam in a satisfactory condition on a long-term basis.

(b) REHABILITATION.—The Secretary is directed to perform such rehabilitation work as is necessary to bring the dams identified pursuant to subsection (c) to a satisfactory condition. Upon the completion of rehabilitation work on each dam, the dam shall be placed under the dam safety operation and maintenance program established pursuant to subsection (a) and shall be regularly maintained under the guidelines of such program.

(c) LIST OF DAMS.—The Secretary shall develop a comprehensive list of dams located on Indian lands that describes the dam safety condition classifications of each dam, as such terms are defined in section 3(5).

(d) PURPOSE.—Work authorized by this Act shall be for the purposes of dam safety operation and maintenance and not for the purposes of providing additional conservation storage capacity or developing benefits beyond those provided by the original dams and reservoirs.

(e) TECHNICAL ASSISTANCE.—To carry out the purposes of this Act, the Secretary may obtain technical assistance from agencies in addition to the BIA under his jurisdiction, such as the Bureau of Reclamation, or from other departments through memoranda of understanding, such as the Department of Defense. Notwithstanding any such technical assistance, the dam safety program and the dam safety operation and maintenance program shall remain under the direction of the BIA.

(f) CONTRACT AUTHORITY.—In addition to any other authority established by law, the Secretary is authorized to contract with appropriate Indian tribes to carry out the dam safety operation and maintenance program established pursuant to this Act.

SEC. 5. AUTHORIZATION.

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.•

By Mr. SPECTER:

S. 443. A bill to amend the Solid Waste Disposal Act and the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to make improvements in capacity planning processes, and for other purposes; to the Committee on Environment and Public Works.

HAZARDOUS WASTE FACILITIES SITING ACT OF 1993

Mr. SPECTER. Mr. President, I now turn to the Hazardous Waste Facilities Siting Act of 1993, which I am introducing at this time.

There is an enormous problem about where to site hazardous waste facilities. In Pennsylvania, for several years we have been confronted with concern focused on a number of sites; most notably, one in Union County and one in Clarion County, PA. The objective here is to get the company wishing to site such a facility to work with the affected communities. And the legislation which I am proposing, Mr. President, puts a premium on having the company which wishes to site a hazardous waste incinerator get that kind of consent.

Mr. President, today I am introducing legislation to help us address the complex problem of siting hazardous waste disposal facilities.

All across the country, communities are facing the vexing issue of how they should react to proposals to site hazardous waste incinerators in their midst. There are currently 18 commercial hazardous waste incinerators in operation around the Nation with more than a dozen additional facilities planned or close to opening. In my State of Pennsylvania, there are currently two sites being evaluated by the Pennsylvania Department of Environmental Resources for permits to site hazardous waste incinerators. The communities surrounding these two sites share a number of common characteristics: The citizens in the area are almost unanimously opposed to the facilities; the citizens and local authorities were never fully consulted by the applicant prior to their decision to apply for a siting permit; and finally, neither of the communities has sufficient resources to undertake an adequate evaluation of the reams of technical documents used by the applicants to support their application.

Unless these issues are resolved in the earliest stages of the application process, communities, and developers are destined to find themselves embroiled in siting conflicts throughout the duration of the permitting process, a process which can often take as long as 10 to 15 years. This has been the case with a hazardous waste incinerator recently constructed in East Liverpool, OH, by Waste Technologies, Industries [WTI]. The WTI facility, the newest of its type, has the capacity to burn as much as 60,000 tons of toxic waste each year. Many serious questions have been raised by local citizens and officials concerning the ownership and need for the facility as well as the possible impact of its emissions on the public health and safety of individuals living in the vicinity. Of particular concern is the health risk to the students at the elementary school 400 yards away from the incinerator smokestack. There is also the issue that air inversions, typical in the Ohio River Valley, could allow toxic emissions to accumulate in the atmosphere. Finally, the incinerator is also located 100 yards from the Ohio River in a flood plain over two underground sources of fresh water.

Since enactment of the Resources Conservation and Recovery Act [RCRA] in 1976, the Comprehensive Environmental Response Compensation and Liability Act [CERCLA] in 1980, the Superfund Amendments Reauthorization Act of 1984, and the Emergency Planning and Community Right To Know Act of 1986, we have made considerable progress in addressing the Nation's hazardous waste problems. Awareness of the country's hazardous waste disposal needs has increased significantly among Federal, State, and local Government authorities, industry, and the general public. The Environmental Protection Agency, for example, has worked to implement regulations which have helped us identify the magnitude of this problem through the review of capacity assurance data and the monitoring of hazardous waste flows between the States. Industry has also become an increasingly committed participant by implementing new

waste minimization technologies and manufacturing processes to reduce waste generation. These government and corporate initiatives have come to be seen by the general public as the alternative to the increasing numbers of large commercial treatment facilities being proposed by developers in communities throughout the country.

Unfortunately, our growing hazardous waste disposal needs have brought us to a crossroads where we must now confront difficult decisions about how much additional hazardous waste disposal capacity is needed throughout the country. This, in turn, gives rise to the issue of what role the public should assume in reviewing proposals/applications to locate hazardous waste disposal facilities in their communities.

While we have made considerable progress in minimizing the generation of hazardous waste, the Nation continues to produce more than 260 million tons of reported hazardous waste each year. Fortunately, more than 90 percent of this waste is treated onsite and only 4 million tons is exported between the States for treatment. EPA has implemented the capacity assurance planning process to measure the amount of waste produced by each State and to verify the amounts which must be shipped interstate for treatment.

Many States are working to achieve self-sufficiency in hazardous waste management so that they will not have to continue to rely upon other States for their hazardous waste disposal needs. These States, according to waste-planning officials in Pennsylvania, will have to consider siting modern pollution-free landfills and, in some cases, incinerators. For such expansions in disposal capacity, I believe the local community should have a clear and unambiguous role in determining whether a proposal to locate a facility in their community can be accomplished without threatening the health and economic welfare of its citizens. Moreover, the developer should be required—to the greatest extent practicable—to receive the consent of the community before proceeding with plans to locate a hazardous waste treatment facility.

This legislation devises a procedure for linking the siting of hazardous waste treatment facilities to community participation in the siting process. We cannot expect the public to acquiesce in the siting of facilities in their communities if they have been left out of the decision making process. My bill requires the applicant, prior to submission of any application to a State or Federal permitting authority for site approval, first to approach local governments and the community residents to inform them as to the intention to construct a hazardous waste disposal facility in their area. The applicant is then required to request the EPA Administrator to establish a host community advisory committee to assist the local community in reviewing the applicant's proposal. The applicant must also provide written certification that the State requires the siting of additional hazardous waste disposal capacity.

Applicants who receive community consent for their facilities would be given priority consideration by Federal and State permitting authorities. This will provide a strong incentive for developers to explore every possible means of fostering a constructive working relationship with the communities, because States will not be authorized to site facilities providing excess disposal capacity unless the applicant has obtained consent from the local authorities. I believe this process will give the public a meaningful voice in the decision of whether it is feasible to site a hazardous waste disposal facility in their community.

Under our current laws, there is considerably uncertainty as to just how much additional hazardous waste disposal capacity must be sited to meet our current and future needs. The General Accounting Office, the National Governors Association, and the EPA all agree that the various methods used to calculate capacity needs have produced less than credible data to accurately assess the scope of our hazardous waste problem. We must have accurate data describing the scope of the Nation's disposal needs if we are to find the most efficient means of disposing of hazardous materials. This legislation addresses the data problem by requiring the EPA Administrator to standardize the national hazardous waste data collection process.

Inadequate data is not the only obstacle to solving the Nation's hazardous waste disposal problems. As States are encouraged to achieve self-sufficiency for their disposal needs, they become increasingly reluctant to treat hazardous materials from other States. The 1992 Supreme Court decision in Chemical Waste Management versus Hunt holds that States cannot discriminate against out-of-State waste and therefore isolate themselves from the Nation's hazardous waste disposal problems. This decision rested on the 1978 Supreme Court decision, Philadelphia versus New Jersey, that struck down a New Jersey law that prohibited the importation of waste from outside the State. Yet the question remains, how can States plan to provide disposal capacity for their own hazardous waste when they have no ability to control the amount of out-of-State waste going into their own facilities. It is because of parallel State and Federal requirements for States to plan for their own waste disposal needs that Congress must act to allow States to limit the quantities of out-of-State waste going to their facilities.

Certainly, if a community decides that it supports the siting of a hazardous waste treatment facility designed to receive out-of-State waste, and the transportation of waste to that facility poses no environmental or health threat to other communities in the State, then the facility operator should be permitted to receive out-of-State waste. However, if community consent to receive out-of-State waste has not been obtained for such a facility, and the State has no excess disposal capacity, then the State should have the ability to restrict the flow of out-of-State waste to these facilities.

The legislation I am introducing today empowers local communities to decide for themselves whether hazardous waste treatment facilities proposed for their area should be permitted to receive out-of-State waste. Since the people in these communities must ultimately shoulder the burden of any environmental or health threats posed by hazardous waste disposal facilities, they are the ones who should decide whether the facility should be designed to handle quantities including out-of-State waste.

My staff and I have met with many groups and individuals playing key roles in the sitting of hazardous waste disposal facilities, including the EPA, the Pennsylvania Department of Environmental Resources, the Chemical Manufacturers Association, the National Governors Association, and most importantly, public officials and residents of Clarion, Lancaster, Washington, and Union Counties, in Pennsylvania. It is clear to me that each shares a significant commitment to accelerating our progress in reducing the amount of hazardous waste which we produce. I believe that if we can work together to focus our efforts on improving waste minimization processes, there will be a marked decrease in the need for hazardous waste disposal facilities. Accordingly, I intend to work closely with my colleagues on the Environment and Public Works Committee to amend subtitle C of RCRA to accomplish this objective.

Few initiatives of this body are as important to the public as preserving the environment and safeguarding public health. Each requires us to make tough decisions now so that we may pass a well-founded structure onto the following generations. The public, government, and industry must all realize that we cannot achieve our goals for a cleaner environment without some sacrifice from each and every group and community. Industry must remain firmly committed to removing pollutants from their waste streams, and the public must recognize that the motion of "not in my back yard" is not the way to solve our problems. Yet, we cannot exclude communities from the process of deciding how we should address our waste disposal problems. I believe we are moving in the right direction in making the environment one of

our critical priorities, and I urge my colleagues to support this bill and help us preserve our environment for the next generation.

I ask unanimous consent that the text of the bill be printed at the conclusion of my remarks on the Hazardous Waste Facilities Siting Act of 1993.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 443

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; FINDINGS.

(a) SHORT TITLE.—This Act may be cited as the "Hazardous Waste Facilities Siting Act of 1993".

(b) FINDINGS.—Congress finds the following:

(1) Local communities and the public must have a greater voice in the process of siting hazardous waste treatment facilities.

(2) Each State should have the right to preserve some hazardous waste management capacity solely for use by the State.

(3) Each State must be authorized to impose differential fees as a method of promoting equities amongst the States.

(4) The role of the Environmental Protection Agency must be expanded to increase the focus of the agency with respect to partnerships with industries to identify technologies that foster pollution prevention and support waste exchange marketing efforts on behalf of industries.

(5) Industries would demonstrate a commitment to pollution prevention by expanding voluntary goals and achieving optimum waste reduction without compromising trade secrets or risking an increase in the level of foreign imports through the banning of certain chemicals.

(6) The capacity assurance planning data gathering process required under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) must be improved to standardize the format, improve the credibility of data, and reduce excess expenditures by the Federal Government and the States in the collection of the data.

SEC. 2. SOLID WASTE DISPOSAL ACT FINDINGS.

Section 1002(b) of the Solid Waste Disposal Act (42 U.S.C. 6901(b)) is amended—

(1) by striking "and" at the end of paragraph (7);

(2) by striking the period at the end of paragraph (8) and inserting "; and"; and

(3) by adding at the end the following new paragraphs:

"(9) the United States continues to generate substantial and increasing volumes of both hazardous and solid waste each year, and if the wastes are not properly managed, the wastes may pose a threat to human health and the environment;

"(10) as of the date of enactment of this paragraph, new hazardous waste management facilities are not being sited and many industries are managing waste in existing facilities without the best available environmental controls, or are engaged in long-distance transportation of wastes to other management and disposal facilities in other States;

"(11) the capacity assurance planning process under section 104(c)(9) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9604(c)(9)) and data gathered pursuant to the process are flawed or inconsistent in many areas;

"(12) as of the date of enactment of this paragraph, the Administrator is not able to ascertain, on the basis of the data described in paragraph (11), whether or not the United States has adequate capacity to meet hazardous waste treatment and disposal needs over the 20-year period beginning on the date of enactment of this paragraph; and

"(13) the capacity assurance data gathering process must be improved to standardize and streamline the efforts of the States and improve the credibility of the data so that the public may be assured of the actual need to site more hazardous waste management facilities.".

SEC. 3. PUBLIC PARTICIPATION AND OBLIGATIONS OF OWNER OR OPERATOR.

(a) IN GENERAL.—Section 3005(b) of the Solid Waste Disposal Act (42 U.S.C. 6925(b)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) by striking "Each" and inserting "(1) Each"; and

(3) by adding at the end the following new paragraph:

"(2)(A) Each application for a permit submitted by a person who plans to construct a new facility for the treatment, storage, or disposal of hazardous waste identified or listed under this subtitle shall, in addition to containing the information required under paragraph (1), contain written assurances that the following procedures have been carried out:

"(i) The applicant published an announcement of the intent to apply for a permit to site a hazardous waste disposal facility in a newspaper of general circulation not later than 90 days before the filing of the application and also published the announcement 7 days after the date of the initial publication.

"(ii) The applicant published an announcement of any purchase or intent to purchase property, specifying the location of the property in a newspaper of general circulation not later than 90 days before the filing of an application for State approval to site a hazardous waste disposal facility.

"(iii) The applicant requested the Administrator (or the appropriate official of the State) to establish an advisory committee pursuant to subparagraph (B).

"(iv) The applicant submitted to the Administrator (or the State) and to the appropriate official of the host community a prospectus that detailed the criteria for the selection of a site, and the nature of the planned facility.

"(v) The applicant submitted to the Administrator (or the State) and the host community advisory committee, no later than 30 days prior to the public hearing described in clause (vi), a compliance history that—

"(I) had been certified as complete by the Administrator, for all related partners and parent subsidiaries of the applicant; and

"(II) included the primary documents concerning the number of notices of violations of the applicant (if any) and the nature and description of the violations.

"(vi) The host community advisory committee conducted at least one public meeting and one public hearing on the planned facility, and the applicant paid the expenses associated with the hearing (as determined by the Administrator).

"(vii) The applicant submitted to the Administrator (or to the State) a detailed analysis and reporting of—

"(I) the area in which the applicant proposed to site the facility;

"(II) the process by which the area was selected;

"(III) a description of the technologies to be used at the site;

"(IV) a comprehensive treatment analysis; and

"(V) the annual capacity of the facility and, if the applicant intends to receive waste from out-of-State, the quantities of out-of-State waste the applicant intends to receive.

"(viii) The applicant submitted to the Administrator (or to the State) written certification of a finding by the State that the requirements under State law concerning the necessity for hazardous waste treatment, storage, or disposal in the State require the siting of additional hazardous waste disposal facilities.

"(ix) Upon completion of the procedures described in clauses (i) through (viii), the applicant requested the appropriate official of the host community for written consent to site the facility in the host community.

"(B) Upon request by an applicant, the Administrator (or the appropriate official of the State) shall establish a host community advisory committee. Members of the committee shall be nominated by an appropriate official of the host community (as determined by the Administrator or the State) residents of the host community and shall be appointed by the Administrator (or the appropriate officials of the State) of which—

"(i) one member shall be a representative of health professionals;

"(ii) one member shall be a local elected official (or a representative of the official);

"(iii) one member shall be a local elected official of a county (or equivalent political subdivision of a State);

"(iv) one member shall be a local elected official of a township (or equivalent political subdivision of a State);

"(v) one member shall be a representative of the local chamber of commerce (if any);

"(vi) one member shall be a representative of local consumer groups;

"(vii) one member shall be a representative of a local environmental organization;

"(viii) one member shall be a member of a local emergency response planning committee (as described in section 301 of the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 11001)); and

"(ix) one member shall be a representative of the general public.

"(C) Each application for a permit submitted by a person who plans to construct a new facility for the treatment, storage, or disposal of hazardous waste identified or listed under this subtitle shall, in addition to containing the information required under subparagraph (A), contain a statement by the appropriate official of the host community concerning whether or not the written consent described in subparagraph (A)(ix) was issued.

"(D) Each application for a permit submitted by a person who plans to construct a new facility for the treatment, storage, or disposal of hazardous waste identified or listed under this subtitle shall, in addition to containing the information required under paragraph (1), contain written assurances that, at the same time as the Administrator (or the State) established a host community advisory committee described in subparagraph (A), the State provided the host community advisory committee with an assistance grant described in subparagraph (E) in an amount not less than $100,000, and that the State will provide additional grants in an amount not less than $100,000 every 12 months thereafter, until such time as a final decision is made concerning the permit application.

"(E)(i) The Administrator shall establish a host community advisory committee assistance grant program to provide assistance to the committees established under subparagraph (B).

"(ii) Subject to the availability of appropriations, the Administrator shall award a grant to each State with an approved plan under this title. A State shall award grants to host community advisory committees. If a State does not have an approved plan under this title, the Administrator shall award grants to host community advisory committees in the State.

"(iii) The amount of any grant awarded to a host community under this subparagraph shall be not less than $100,000.

"(iv) A grant to a host community shall be awarded by the Administrator or the State for a fiscal year (as determined by the State). Subsequent grants may be awarded to a host community advisory committee until such time as a final decision is made concerning the permit application.

"(F) There are authorized to be appropriated to the Environmental Protection Agency such sums as may be necessary to carry out the grant program under subparagraph (E).

"(G) For the purposes of this paragraph, the term 'host community' means the political subdivision of a State in which the facility for the treatment, storage, or disposal of hazardous waste is proposed to be located.".

(b) PERMIT ISSUANCE.—Section 3005(c) of the Solid Waste Disposal Act (42 U.S.C. 6925(c)) is amended by adding at the end the following new paragraphs:

"(4) Prior to issuing a permit under this section for new hazardous waste disposal facilities or for any such facility which has not received an operating permit as of January 1, 1993, for the treatment, storage, or disposal of hazardous waste, the Administrator (or the State) must receive written assurances from the applicant that the procedures described in subsection (b)(2) have been completed. The assurances shall include a notarized statement from the host community advisory committee that the written assurances are accurate, and the assurances shall include a notarized statement from the host community advisory committee that the statement of the applicant is accurate.

"(5) Prior to issuing any permit under this section, the Administrator shall determine whether a facility would conform with applicable capacity assurance plans submitted to the Administrator in accordance with section 104(c)(9) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9604(c)(9)), including whether the proposed facility could cause the State to exceed the capacity needs of the State.

"(6) In issuing any permit under this section for a new facility for the treatment, storage, or disposal of hazardous waste, the Administrator (or the State) shall give priority to each owner or operator who has received written consent of a host community pursuant to this title.

"(7) If the Administrator determines, pursuant to paragraph (5), that a facility could cause the State to exceed the capacity needs of the State, no permit shall be issued under this section, unless the Administrator determines that the State cannot fulfill the capacity requirements of the State under applicable capacity assurance plans submitted to the Administrator in accordance with section 104(c)(9) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9604(c)(9)).

"(8) Any permit issued under this section for a facility described in paragraph (4) shall be subject to the condition that, with respect to hazardous waste generated outside of the State in which the facility is located, the facility may not treat, store, or dispose of the hazardous waste unless the owner or operator of the facility enters into an agreement with the appropriate official of the host community (as determined by the Administrator or the State) that authorizes the treatment, storage, or disposal.".

(c) AUTHORIZED STATE HAZARDOUS WASTE PROGRAMS.—Section 3006(b) of the Solid Waste Disposal Act (42 U.S.C. 6926(b)) is amended by adding at the end the following new sentence: "The Administrator shall not authorize a State program under this section unless the State program provides for appropriate mechanisms for the appointment of host community committees and review procedures to enable an applicant to carry out the requirements under section 3005(b)(2).".

(d) REGULATIONS.—The Administrator of the Environmental Protection Agency (hereafter in this Act referred to as the "Administrator") shall promulgate such regulations as are necessary to carry out the amendments made by this section. The regulations shall include appropriate safeguards and procedures to ensure that an applicant is able to carry out the review procedure described in section 3005(b)(2) of the Solid Waste Disposal Act, as added by subsection (a).

SEC. 4. CAPACITY ASSURANCE PLANNING DATA.

Section 104(c)(9) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9604(c)(9)) is amended—

(1) by redesignating subparagraphs (A) through (D) as clauses (i) through (iv), respectively;

(2) by striking "Effective" and inserting "(A) Effective";

(3) by inserting after "deemed adequate by the President that the State will" the following: "meet the requirements of subparagraph (B) and will";

(4) by adding at the end of the paragraph the following subparagraph:

"(B)(i) Not later than 180 days after the date of enactment of this subparagraph, the Administrator shall establish guidelines for the biennial gathering of capacity assurance reporting data required to be submitted pursuant to this paragraph.

"(ii) Not later than 180 days after the date of enactment of this subparagraph, the Administrator shall promulgate regulations that require, as part of the capacity assurances under subparagraph (A) for any State that, in the most recent capacity assurance plan submitted pursuant to this paragraph, documented a capacity shortfall in the State in a quantity in excess of 50,000 tons per year, or that is a net exporter of hazardous waste, the detailed and comprehensive reporting information described in subparagraph (C).

"(C) Not later than 180 days after the date of enactment of this subparagraph, the Administrator shall prescribe regulations that require that the capacity assurances under this paragraph include (in accordance with guidelines that the Administrator shall prescribe by regulation) the following information in a standardized format:

"(i) Assurances that the State uses the most appropriate measures of hazardous waste classification for generation and management (as determined by the Administrator by regulation).

"(ii) The specification of quantitative measures used to measure waste characteristics.

"(iii) An indication that wastes treated or disposed of at on-site facilities and wastes treated or disposed of at off-site facilities shall be considered as part of the same tracking and planning process.

"(D) A State that fails to meet the applicable requirements of this paragraph shall be subject to a civil penalty that shall be assessed under applicable procedures of this Act. The Administrator shall, by regulation, establish guidelines for the assessment of a civil penalty under this paragraph, including a maximum amount for the civil penalty.".

(2) ENFORCEMENT GUIDELINES.—The guidelines established under paragraph (1) shall provide for a tiered system of penalty assessment that provides for a reduction in the amount of a penalty for a de minimus deviation from a capacity requirement.

SEC. 5. MISCELLANEOUS PROVISIONS.

(a) GUIDELINES FOR THE RELEASE OF INFORMATION.—Not later than December 31, 1993, the Administrator shall, by regulation, establish guidelines for the inclusion of toxic chemical release information required to be submitted under section 313 of the Emergency Planning and Community Right-To-Know Act of 1986 (42 U.S.C. 11023) in the capacity assurance data required to be submitted under section 104(c)(9) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9604(c)(9)) for December 1994, and every 2 years thereafter.

(b) COMMENT PERIOD.—In promulgating regulations under subparagraphs (B) and (C) of section 104(c)(9) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (as added by section 4 of this Act) and under this section, the Administrator shall provide a 12-month period for public comment after the publication of a proposed regulation before promulgating a final regulation.

(c) MODEL CAPACITY ASSURANCE PLAN.—To assist States in meeting the requirements for capacity assurance plans issued under section 104(c)(9) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9604(c)(9)), the Administrator shall develop and publish a comprehensive model capacity assurance plan to assist States in complying with the data gathering process required to prepare a capacity assurance plan, the schedules required to be included in a plan, and other requirements related to the use of resources.

(d) STATEMENT BY THE ADMINISTRATOR.—Not later than 180 days after the date of enactment of this Act, the Administrator shall publish in the Federal Register a statement concerning whether the United States has adequate capacity to treat and dispose of hazardous waste (as listed pursuant to section 3001 of the Solid Waste Disposal Act (42 U.S.C. 6921) during the 20-year period following the publication of the statement. The Administrator shall include a summary of the flow of waste between States and the level of capacity of each State to treat, store, or dispose of hazardous waste within the State.

By Mr. STEVENS (for himself and Mr. MURKOWSKI):

S. 444. A bill to require a study and report on the safety of the Juneau International Airport, with recommendations to Congress; to the Committee on Commerce, Science, and Transportation.

JUNEAU INTERNATIONAL AIRPORT SAFETY ACT OF 1993

Mr. STEVENS. Mr. President, on November 12, 1992, an Alaska Air National Guard plane crashed on a mountain top near Juneau, the capital of my State in southeastern Alaska.

We lost our top Air National Guard commander, Gen. Thomas Carroll and dedicated, experienced Guard members in that crash. Eight families lost a father or husband or son.

Unfortunately, this tragedy was not an isolated incident. In the last 20 years, there have been three fatal air crashes at this same locaton—all under similar circumstances.

I might say I have an abiding interest in this situation because I was scheduled to be a passenger on one of those airplanes and at the last minute canceled out.

Many in the Alaska aviation community believe that these crashes are linked. They believe that the problem lies with the approaches to Juneau International Airport, which lacks modern navigational aids.

It is for this reason that I join Senator MURKOWSKI in introducing the Juneau International Airport Safety Act of 1993.

Under this legislation, the Department of Transportation will work with the National Transportation Safety Board, the National Guard, and the Juneau International Airport to prepare a study examining the safety of the approaches to Juneau Airport.

In particular, this study will examine and compare the Alaska Airlines crash of 1971 in which 111 passengers and crew members were lost, the Medevac Lear jet crash of 1985 where four lost their lives, and last fall's Air National Guard crash. The study will also look at the adequacy of current navigational aids, and the need for additional radar in the Juneau vicinity.

Even though Juneau's population is fewer than 30,000 the Juneau International Airport serves a record 300,000 passengers per year. Alaska Airlines and Delta Airlines both operate regular service out of Juneau. Eleven air taxi operators also fly in and out of Juneau.

Their flight operations are hindered by Juneau's unique terrain and weather. Juneau, which lies on the Gastineau Channel, is surrounded by mountains.

Transportation is also endangered by Juneau's notoriously bad weather. It is not unusual for Juneau Airport to be completely fogged in for several days.

And, to reiterate: even if the weather is good, pilots still must cope with the dangers presented by Juneau's mountainous terrain. Difficult enough under the best of circumstances, but even more frightening because of Juneau Airport's extremely limited radar capabilities.

People ask, "Why don't more Alaskans drive to Juneau, rather than rely on air transportation?"

If you look at a map of my State, you'll see that there are no roads into Juneau, and only a small system of roads within the city itself.

Alaska's capital is almost exclusively dependent on air transportation, with a little help from our Marine Highway system of ferries in the summer months.

Because of the severe weather, because of the unique terrain, and because of the history of fatal air crashes, I believe, Mr. President, that a study of Juneau International Airport is long overdue.

Let me add it is not totally an island, it is just shut off because there is no access across the glaciers to get to the mainland and the Juneau area.

I ask unanimous consent the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 444

SECTION 1. SHORT TITLE.

This Act may be cited as "the Juneau International Airport Safety Act of 1993."

SEC. 2. STUDY.

(a) Within 30 days of the date of enactment of this Act, the Secretary of Transportation, in cooperation with the National Transportation Safety Board, the National Guard, and the Juneau International Airport, shall undertake a study of the safety of the approaches to the Juneau International Airport.

(b) Such study shall examine—

(1) the crash of Alaska Airlines Flight 1866 on September 4, 1971;

(2) the crash of a Lear Jet on November 12, 1985;

(3) the crash of an Alaska Air National Guard aircraft on November 12, 1992;

(4) the adequacy of NAVAIDs in the vicinity of the Juneau International Airport;

(5) the possibility of confusion between the Sisters Island directional beacon and the Coghlan Island directional beacon;

(6) the need for a singular Approach Surveillance Radar site on top of Heintzleman Ridge;

(7) the need for a Terminal Visual Omni Range radar in Gastineau Channel;

(8) any other matters any of the parties named in subsection (a) think appropriate to the safety of aircraft approaching or leaving the Juneau International Airport.

SEC. 3. REPORT.

(a) Within six months of the date of enactment of this Act the Secretary of Transportation shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Public Works and Transportation of the House of Representatives a report which—

(1) details the matters considered by the study;

(2) summarizes any conclusions reached by the participants in the study;

(3) proposes specific recommendations to improve or enhance the safety of aircraft approaching or leaving the Juneau airport, or a detailed explanation of why no recommendations are being proposed;

(4) estimates of cost of any proposed recommendations; and

(5) includes any other matters the Secretary deems appropriate.

(b) The report shall include any minority views if consensus is not reached among the parties listed in subsection 2(a).

By Mr. CONRAD (for himself, Mr. DORGAN, Mr. WELLSTONE, Mr. CRAIG, Mr. FEINGOLD, Mr. BURNS, Mr. PRESSLER, Mr. GRASSLEY, Mrs. MURRAY, and Mr. DASCHLE):

S. 445. A bill to amend the Food, Agriculture, Conservation, and Trade Act of 1990 to improve monitoring of the domestic uses made of certain foreign commodities in order to ensure that agricultural commodities exported under agricultural trade programs are entirely produced in the United States, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

AGRICULTURAL EXPORT PROGRAM PROTECTION ACT OF 1993

Mr. CONRAD. Mr. President, on February 8 of this year, a binational panel formed under the Canadian Free-Trade Agreement issued a report on Canada's compliance with respect to Durum wheat sales into the United States. The panel, formed in response to concerns expressed by our producers that Canadian shipments of Durum wheat were flooding United States markets, was asked to determine whether Canada was subsidizing wheat sales in violation of the agreement.

Mr. President, the Canadian Free-Trade Agreement states in part:

> Neither party, including any public entity that it establishes or maintains, shall sell agriculture goods for export to the territory of the other party at a price below the acquisition price of the goods, plus any storage, handling or other costs incurred by it with respect to those goods.

It is clear from that language that Canada is not allowed to sell grain in the United States below its cost of producing and exporting that grain to the United States. It is clear that all payments made by the Canadian Wheat Board to Canadian grain producers are included. It is clear that subsidies for transportation, storage, and handling costs should not be excluded from the cost of the grain.

But that is not what the panel ruled. Instead, the panel declared, through analysis of the legislative history and testimony of our own former trade officials, that many of the costs cannot be included in the acquisition price of the goods, plus any storage, handling, or other costs incurred by it with respect to these goods.

It is really quite a preposterous conclusion, Mr. President. If one looks at the plain language of the agreement, it indicates clearly that all costs are to be included. But the binational panel ruled otherwise. They relied on the actual words used by our negotiators. Our own negotiators undercut the clear language of the agreement.

Specifically, the decision does not count as a subsidy or a cost of acquisition two payments that are normally made to Canadian producers by the Canadian Wheat Board. Also, it does not

count as a subsidy or as part of the cost of handling, the rail subsidies for eastbound grain transported under the Canadian Western Grain Transportation Act.

Mr. President, these are not minor exemptions. The transportation exemption alone can amount to 75 cents to a $1 a bushel on grain that only sells for $3.50 a bushel.

The agreement allows the Canadian Wheat Board, the monopoly sales agent for Canadian wheat, to market Canadian wheat without price transparency in its transactions. That simply means that Canada sells in secret. They do not tell anybody what their prices are, except the buyers.

You can find out the American price for grain any minute of any day on our grain exchange. You can call in. You can read the paper the next day. It is all laid out. You cannot find out what Canada is selling its grain for. They sell it in secret, using their wheat board, giving their farmers an unfair advantage.

Mr. President, why is this such a problem? Let me just briefly explain.

The northern tier States of North and South Dakota, Minnesota, and Montana produce virtually all of this Nation's Durum.

For those who are not familiar with this commodity, Durum is the type of wheat that is used to make pasta. And I know that everyone is familiar with pasta.

For years, Durum producers in my State and other northern tier States received a premium price for this difficult to grow crop, as much as $1 a bushel over other wheats. Canada did not sell even one bushel of Durum in the United States.

But since the Canadian Free-Trade Agreement was signed in 1987, Canadian producers have dramatically increased shipments of Durum to the United States. In fact, last year Canada captured 20 percent of the United States Durum market. And, based on sales so far this year, Canada could take over 25 percent of our market in the current marketing year.

Mr. President, If I could just direct the attention of my colleagues to this chart. It shows the dramatic increase of Canadian exports of Durum into this country since the signing of the Canadian Free-Trade Agreement. In 1986–87, we saw the first shipments, 2.3 million bushels, after absolutely no Durum came in from Canada in 1985–86. And since that time, we can see the dramatic escalation year by year.

So now we are seeing 15 million bushels of Canadian Durum come into our market in the most recent years. This has had a clear and harshly negative impact on U.S. Durum producers.

Our producers have suffered a sharp drop in the price they receive for Durum. It has dropped to or below that of other wheats. Our producers have lost literally hundreds of millions of dollars as a result and have been forced to grow other varieties, which compete with wheat grown in Kansas, for example. Ultimately, the effect is to lower prices for all wheat producers.

Mr. President, all of this would be fair, if it was fair competition. We often say, free trade ought to be fair trade. Well, that applies to Durum wheat, as well. Our producers are not saying protect us against fair competition, but our producers are saying it ought to be a level playing field. If our subsidies count in this agreement, Canadian subsidies ought to count. If our prices are open and clear to everyone, Canadian prices ought to be clear and open to everyone.

With farm income in my part of the country already at dangerously low levels, Mr. President, the inequities of the Canadian Free-Trade Agreement only aggravate the situation. Our farmers are efficient and they can compete in an increasingly challenging world market. But they cannot compete against the Canadian Government, Mr. President.

We cannot have a situation in which our farmers are told, "You go out there and, not only do you compete against the Canadian farmer, you compete against the entire Canadian Government." That is not fair trade. That is certainly not free trade. In my judgment, it has been negotiated trade and the previous administration lost the negotiation.

Let me give an example, Mr. President, of what is happening to us. We know, from statements made by the Canadian Wheat Board to Chilean grain buyers, that they are prepared to beat any United States price by 5 cents a bushel in any market. By doing so, the Canadian Wheat Board has taken 80 percent of the Mexican wheat market, even though they must transport wheat much farther than, say, the wheat growers of Texas or Oklahoma.

We have, in our country, a number of programs to help our farmers compete in world markets with the heavy subsidies of Europe and Canada, and against the State sales agencies of Canada and Australia.

Under our law, only American agricultural products can be exported under the Export Enhancement Program, the credit guarantee programs, and the Public Law 480 food assistance program. These trade programs are essential to helping United States products compete with highly subsidized products in Europe and Canada.

The question is: How do we prevent Canadian wheat and barley, flooding across our northern borders, from being reexported under our export programs at United States taxpayers' expense?

The answer is we cannot, unless we enact legislation similar to Canadian law to track imports of grain.

That is why I am introducing legislation today.

I ask unanimous consent at this point that Senator DORGAN, Senator CRAIG, Senator WELLSTONE, Senator FEINGOLD, Senator BURNS, Senator MURRAY, Senator PRESSLER, Senator GRASSLEY, Senator DASCHLE, and Senator HARKIN be added as original cosponsors of this legislation.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. CONRAD. Mr. President, this bill, the Agricultural Export Program Protection Act of 1993, requires that imports of certain foreign commodities carry an end-use certificate. What this simply means is that the foreign grain entering the United States should be labeled to track its passage in the U.S. markets.

Canada already uses end-use certificates to ensure that United States grain entering their market does not receive subsidized transportation or subsidized export treatment through their Wheat Board. We should be bold enough to stand up for our producers and require the same. In fact, we must do so to ensure that our own laws are being followed.

With the flood of Canadian grain entering our market as a result of a Canadian system designed to move grain to export terminals near United States markets, United States export programs are almost certainly shipping Canadian grain commingled with our own. We have no effective method of ensuring that this does not happen. The bill my colleagues and I are introducing today would prevent foreign grains and soybeans from entering our export system under our export sales programs.

The bill will protect U.S. taxpayers from misuse of their tax dollars. We cannot let foreign producers piggyback on U.S. export programs.

Our bill also allows the Secretary of Agriculture to request a report from the importer of foreign grain indicating the sales price of a covered foreign commodity that is subject to an end-use certificate.

This information is vital to help U.S. officials enforce U.S. antidumping and countervailing duty laws, ensure foreign compliance with international trade agreements, and guarantee fair trade in world grain sales. To protect traders and users of foreign grains, information gathered under this provision will be kept confidential.

The current situation with Canada is simply intolerable. We cannot allow U.S. producers to continue to lose hundreds of millions of dollars, lose hope, and lose production because of subsidized—and I might add, unfairly subsidized—imports.

We must act immediately to do everything we can in our country to address this unfair situation. In that respect, I am pleased by the attention

given this issue by Ambassador Kantor, our new Trade Representative.

Mr. CONRAD. Mr. President, in conclusion, in the long run, we must work with our neighbors to the north to end the current situation.

Our legislation will not resolve the inequities of the Canadian Free-Trade Agreement, but it will give producers and taxpayers the assurance that their dollars are not being used to support Canadian farmers.

Mr. President, I ask unanimous consent to have printed in the RECORD, at the end of my remarks, copies of correspondence I have had with Ambassador Kantor on this subject.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 445

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Agricultural Export Program Protection Act of 1993".

SEC. 2. AGRICULTURAL EXPORT PROGRAM PROTECTION.

Title XV of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101-624) is amended by adding at the end the following new subtitle:

"Subtitle G—Agricultural Export Program Protection

"SEC. 1581. DEFINITIONS.

"As used in this subtitle:

"(1) AGRICULTURAL TRADE PROGRAM.—The term 'agricultural trade program' means an export promotion, export credit, export credit guarantee, export bonus, or other export or international food aid program carried out through, or administered by, the Commodity Credit Corporation, including such a program carried out under—

"(A) the Agricultural Trade Act of 1978 (7 U.S.C. 5601 et seq.)—

"(i) including the export enhancement program established by section 301 of such Act (7 U.S.C. 5651); but

"(ii) excluding the market promotion program established by section 203 of such Act (7 U.S.C. 5623);

"(B) the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.);

"(C) section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431); or

"(D) section 5 of the Commodity Credit Corporation Charter Act (15 U.S.C. 714c).

"(2) COVERED FOREIGN COMMODITY.—The term 'covered foreign commodity' means wheat, feed grains, or soybeans produced in a foreign country that is imported into the customs territory of the United States.

"(3) ENTRY.—The term 'entry' means the entry into, or the withdrawal from warehouse for consumption in, the customs territory of the United States.

"(4) PERSON.—The term 'person' includes an exporter, an assignee, and a participant in an agricultural trade program.

"(5) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture.

"(6) UNITED STATES AGRICULTURAL COMMODITY.—The term 'United States agricultural commodity' has the same meaning given the term in section 102(7) of the Agricultural Trade Act of 1978 (7 U.S.C. 5602(7)).

"SEC. 1582. MONITORING OF DOMESTIC USES MADE OF CERTAIN FOREIGN COMMODITIES.

"(a) IN GENERAL.—

"(1) END-USE CERTIFICATE.—An end-use certificate that meets the requirements of subsection (b) shall be included in the documentation covering the entry of any covered foreign commodity.

"(2) QUARTERLY REPORTS.—A consignee of a covered foreign commodity (including a secondary consignee of a covered foreign commodity and a consignee of a covered foreign commodity that has been commingled with a commodity produced in the United States) shall submit to the Secretary a quarterly report that certifies—

"(A) what percentage of the covered foreign commodity that is subject to an end-use certificate was used by the consignee during the quarter; and

"(B)(i) that the covered foreign commodity referred to in paragraph (1) was used by the consignee for the purpose stated in the end-use certificate; or

"(ii) if ownership of the covered foreign commodity is transferred, the name and address and other information, as determined by the Secretary, of the entity (or consignee) to whom it is transferred.

"(b) END-USE CERTIFICATE AND QUARTERLY REPORT CONTENT.—The end-use certificates and quarterly reports required under subsection (a) shall be in such form, and require such information, as the Secretary considers necessary or appropriate to carry out this section. At a minimum, the Secretary shall require that end-use certificates and quarterly reports indicate—

"(1) in the case of the end-use certificate—

"(A) the name and address of the importer of record of the covered foreign commodity that is subject to the certificate;

"(B) the name and address of the consignee of the covered foreign commodity;

"(C) the identification of the country of origin of the covered foreign commodity;

"(D) a description by class and quantity of the covered foreign commodity;

"(E) the specification of the purpose for which the consignee will use the covered foreign commodity; and

"(F) the identification of the transporter of the covered foreign commodity from the port of entry to the processing facility of the consignee; and

"(2) in the case of the quarterly report—

"(A) the information referred to in subparagraphs (A) and (B) of paragraph (1);

"(B) the identification of the end-use certificates currently held by the consignee;

"(C) a statement of the quantity of the covered foreign commodity that is the subject of each of the end-use certificates identified under subparagraph (B) that was used during the quarter;

"(D) a statement of the use made during the quarter by the consignee of each quantity referred to in subparagraph (C);

"(E) a statement of the quantity of the covered foreign commodity that was exported by the consignee during the quarter;

"(F) a statement of the quantity of the covered foreign commodity that was commingled with commodities produced in the United States and the disposition of the commingled commodities; and

"(G) a statement of the quantity of any covered foreign commodity that is transferred to a subsequent consignee, the name and address of the consignee, and the change in end-use.

"(c) SALES PRICE.—The Secretary may require the importer or the first consignee of a covered foreign commodity to report to the Secretary the sales price of a covered foreign commodity that is subject to an end-use certificate issued under this section if the Secretary considers the sales price necessary to facilitate enforcement of United States trade laws and international agreements.

"(d) CONFIDENTIALITY.—In carrying out this section, the Secretary shall take such actions as are necessary to ensure the confidentiality and privacy of purchasers of covered foreign commodities.

"(e) ENTRY PROHIBITED UNLESS END-USE CERTIFICATE PRESENTED.—The Commissioner of Customs may not permit the entry of a covered foreign commodity unless the importer of record presents at the time of entry of the covered foreign commodity an end-use certificate that complies with the applicable requirements of this section.

"(f) PENALTIES.—

"(1) CUSTOMS PENALTIES.—End-use certificates required under this section shall be treated as any other customs documentation for purposes of applying the customs laws that prohibit the entry, or the attempt to enter, merchandise by fraud, gross negligence, or negligence.

"(2) CIVIL PENALTIES.—Any person who knowingly violates any requirement prescribed by the Secretary to carry out this section is punishable by a civil penalty in an amount not to exceed $10,000.

"(g) REGULATIONS.—The Secretary shall prescribe such regulations as are necessary to carry out this section, including regulations regarding the preparation and submission of the quarterly reports required under subsection (a)(2).

"SEC. 1583. COMPLIANCE PROVISIONS.

"Subsections (b) and (c) of section 402 of the Agricultural Trade Act of 1978 (7 U.S.C. 5662) shall apply to the programs authorized under this subtitle.

"SEC. 1584. SUSPENSION OR DEBARMENT FOR USE OF FOREIGN AGRICULTURAL COMMODITIES IN CERTAIN AGRICULTURAL TRADE PROGRAMS.

"(a) HEARING.—The Commodity Credit Corporation shall provide a person with an opportunity for a hearing before suspending or debarring the person from participation in an agricultural trade program for using a foreign agricultural commodity in violation of the terms and conditions of the program.

"(b) WAIVER.—

"(1) IN GENERAL.—The Commodity Credit Corporation may waive the suspension or debarment of a person from participation in an agricultural trade program for using a foreign agricultural commodity in violation of the terms and conditions of the program if the person demonstrates, to the satisfaction of the Corporation, that—

"(A) the use of the foreign agricultural commodity was unintentional; and

"(B) the quantity of the foreign agricultural commodity used was less than 1 percent of the total quantity of the commodity involved in the transaction.

"(2) OTHER PENALTIES.—Any waiver by the Commodity Credit Corporation of a suspension or debarment of a person under paragraph (1) shall not affect the liability of the person for any other penalty imposed under an agricultural trade program for the quantity of the foreign agricultural commodity involved.".

SEC. 3. EFFECTIVE DATE.

This Act and the amendment made by this Act shall become effective 120 days after the date of enactment of this Act.

U.S. SENATE,
Washington, DC, February 10, 1993.

Hon. MICKEY KANTOR,
U.S. Trade Representative,
Washington, DC.

DEAR AMBASSADOR KANTOR: I am writing to you to express my extreme disappointment at the ruling of the binational panel on durum wheat sales. Quite simply, the current situation facing U.S. durum producers is intolerable. Since the binational panel's ruling does nothing to reverse this situation, I am writing to ask that you publicly express disagreement with the ruling and that you take action to modify those portions of the U.S. Canada Free Trade Agreement (CFTA) that have created unfair competition in grains such as durum.

As you know from our meeting February 4, Canadian durum imports to the United States have increased dramatically since the CFTA was signed. Before 1987, Canada sold no durum in the U.S.; last year it sold over 13 million bushels. This flood of imports has now captured 20 percent of the U.S. durum market and, based on sales so far this year, could amount to well over 25 percent in the current marketing year. This has had a clear, negative impact on U.S. durum producers. They have lost 20 percent of the U.S. market, and the price they receive has been dropped 15–20 percent as a direct result of increased imports from Canada. Over the past five years, this has cost U.S. durum growers hundreds of millions of dollars.

While they would still hurt, these losses would be understandable if they were the result of free, fair competition and Canadian durum growers were simply more efficient than U.S. durum growers. But they are not. The Canadian Free Trade Agreement is not free trade. It is not fair trade. It's negotiated trade and the Reagan Administration lost the negotiation. There are enough loopholes in the durum portion of the agreement for the Canadians to ship millions of unfairly subsidized bushels of durum south, and that is exactly what they are doing.

Given the existence of these loopholes, the binational panel's ruling—while extremely disappointing—is not particularly surprising. While I disagree with the panel's interpretation of all the terms it considered in Article 701.3, I want to draw your attention in particular to the dangerous precedent set in the panel's ruling on transportation subsidies. The binational panel has ruled that these transportation subsidies should not be counted in determining whether Canada is selling in the United States below the "acquisition price * * * plus any * * * other cost incurred by it with respect to those goods" (Article 701.3). Despite the plain language of Article 701.3, the panel has come to the tortured conclusion that, since it is paid by the Canadian government and not the Canadian Wheat Board, the transportation subsidy should not be counted.

By misconstruing the phrase "any cost incurred by it" to refer only to costs incurred by the Canadian Wheat Board (when from the context of the entire Article 701.3 "it" clearly refers instead to each Party to the agreement, or the Canadian government as a whole), the panel has completely changed the meaning of Article 701.3 in a manner that would allow virtually unlimited subsidies to Canadian agricultural exports. Under this interpretation, the Canadian Wheat Board can sell durum in the United States at a price significantly below Canada's actual costs so long as the Canadians subsidize the sales through some entity other than the Wheat Board. This part of the ruling flies in the face of a common sense interpretation of the article, and if allowed to stand could have disastrous consequences for U.S. agricultural commodities subject to Canadian competition. I urge you to register your strongest disagreement to this ruling and the panel's interpretation in general.

Ultimately, however, the problems with the ruling stem from mistakes made by the Reagan Administration in negotiating the agreement itself. In particular, there are two aspects of the agreement that lead directly to unfair competition. First, the agreement specifically exempted subsidies for eastbound grain transported under the Canadian Western Grain Transportation Act from the calculation of Canadian producer subsidies. This means that Canadian farmers only a few miles north of North Dakota durum growers ship their grain to Great Lakes ports at less than one-third the cost facing North Dakota farmers. There is no way American farmers can compete with a subsidy of this magnitude. Yet, because it is not counted as a subsidy under the agreement, American farmers cannot export one bushel of durum to Canada.

Second, the Canadian Wheat Board markets all Canadian wheat without price transparency in its transactions. Consequently, there is no way of knowing whether or not the Wheat Board is providing de facto subsides to Canadian grain exports by selling below cost in some markets and making up these losses in other markets. In general, this means that Canadian grains are capturing markets that were once ours by undercutting U.S. market prices. Because this is done in secret, though, the U.S. is unable to fight these subsidies through its own export programs. In the case of the U.S. durum market, as the panel itself noted, this secret pricing practice means there is no way of knowing whether Canada has sold durum below its costs.

To add insult to injury, Canadian grains are almost certainly receiving the benefits of U.S. export programs such as the Export Enhancement Program. Once Canadian grain enters the U.S., there is currently no way of tracking its end use. Instead, it becomes mixed with U.S. grains. Then, when the U.S. uses EEP subsidies to counter unfair foreign subsidies in the third markets, Canadian grain inevitably gets included, despite the legal requirement that only U.S. products may receive export assistance.

We can no longer tolerate Canada's use of transportation subsidies and a secretive pricing mechanism to destroy U.S. grain markets. Canada cannot continue to have it both ways: either it must stop providing these transportation subsidies, or the subsidies must count under the agreement. And if we are to ensure that Canada is living up to its obligations under the agreement and is not using unfair competition in world markets, the United States must have access to Canadian Wheat Board pricing information.

I urge you to use the side agreements to be negotiated in connection with the North American Free-Trade Agreement (NAFTA) to re-open the CFTA and address these issues. We cannot allow flawed, unfair provisions of the CFTA to extend to the NAFTA and undercut U.S. grain growers in Mexican markets as well as our own. I further urge you to ask President Clinton to support legislation I will introduce in the near future to impose end-use certificates on Canadian grains to ensure that they are not re-exported with American taxpayer assistance.

Thank you for your attention to these matters.

Sincerely,

KENT CONRAD,
U.S. Senator.

U.S. TRADE REPRESENTATIVE,
EXECUTIVE OFFICE OF THE PRESIDENT,
Washington, DC, February 12, 1993.

Hon. KENT CONRAD,
U.S. Senate, Washington, DC.

DEAR SENATOR CONRAD: It was a pleasure to meet with you and your colleagues on February 4 regarding grain imports from Canada. Thank you also for your letter of February 10, 1993, on the same subject. I want to reiterate that your concern about the impact on U.S. farmers of imports of Canadian grain is receiving my full attention.

When I met with Canadian Trade Minister Michael Wilson on February 8, I emphasized to him the extreme importance I attach to addressing this issue and to ensuring that Canadian grain is not unfairly traded into the U.S. market.

That same day, as you know, we received the final report of the dispute settlement panel on durum wheat. Like you, I am disappointed that the panel did not agree with our arguments regarding the scope of "acquisition costs" under the U.S.-Canada Free Trade Agreement (CFTA). Unfortunately, the panel appears to have relied heavily upon statements made on the public record by former U.S. government officials during the negotiation of the CFTA and the enactment of the implementing legislation. These statements supported Canada's contention that the negotiators had intended a narrow view of acquisition cost.

I was also disappointed that the panel declined to make a finding at this time as to whether Canada has sold durum wheat for export to the United States at below the acquisition cost since the adoption of the CFTA. The panel was reluctant to cite Canada for violating the CFTA on the basis of constructed data provided by the United States rather than actual data, particularly given the sharp disagreement between the parties over the proper interpretation of Article 701.3.

Other elements of the panel report, however, may be useful in our effort to prevent unfair sales. Specifically, the panel's recommendation that Canada submit to audits of its wheat sales by an independent auditor can finally provide some needed transparency. I understand that this will be the first time Canada has agreed that the Canadian Wheat Board must open its books by disclosing cost and price data concerning its U.S. sales to an impartial outside auditor to determine compliance with the CFTA. The auditor will have access to all relevant documents and will report its findings to a working group, composed of officials from both governments. We will not only have an independent assessment based on definitive information, but we also believe that the periodic audits will encourage the CWB to strictly abide by the Agreement in the future. The first audit, which can be conducted as early as this June, is to cover all sales since January 1, 1989, when the CFTA went into effect.

The grains issue will be on the agenda for my next meeting with Minister Wilson in mid-March. In the meantime, I assure you that I will continue to give this issue my close personal attention, and look forward to working with you and your colleagues to explore what further can be done.

Sincerely,

MICHAEL KANTOR.

By Mr. ROTH (for himself, Mr. BRADLEY, Mr. BREAUX, and Mr. LAUTENBERG):

S. 446. A bill to extend until January 1, 1996, the existing suspension of duty on tamoxifen citrate; to the Committee on Finance.

TAMOXIFEN CITRATE DUTY SUSPENSION ACT OF 1993

• Mr. ROTH. Mr. President, I rise today to introduce legislation to reinstate and extend the temporary suspension of duties on tamoxifen citrate. Tamoxifen is used by thousands of women in the treatment of breast cancer and has proven to be one of the most effective drugs in preventing its recurrence. This critically important drug is imported in bulk and then made into tablet form under the brand name of Nolvedex. The final product is manufactured in my home State of Delaware by the Zeneca Pharmaceuticals Group, which is formerly known as ICI Pharmaceuticals. I am pleased that Senators BRADLEY, BREAUX, and LAUTENBERG have joined me in introducing this duty suspension bill.

The statistics on breast cancer are sobering. It is the second leading cause of cancer death in women. Out of an estimated 170,000–180,000 women who will be diagnosed with breast cancer this year, 46,000 will die from it over the next 12 months. However, improved detection and treatment methodologies have helped us gain some ground in our fight against this terrible disease. The 5-year survival rate for localized breast cancer has risen from 78 percent in the 1940's to 93 percent today. Although research has not yielded a cure for breast cancer, steps have clearly been made to increase women's chance of survival.

Tamoxifen, which has been used to treat breast cancer in the United States since 1978, has been one bright spot in this otherwise sober picture. Recent studies have shown that women who are diagnosed with breast cancer and are given tamoxifen have reduced by 40 percent their chances of getting this dreadful disease again. This drug may also prevent breast cancer from developing in healthy women; an ongoing 5-year Federal study is focusing on whether this is indeed the case. As stated by Bernardine Healy, the Director of the National Institutes of Health [NIH], "(t)he most effective treatment for breast cancer is the prevention of breast cancer."

The extension of the duty suspension on tamoxifen will decrease the overall costs associated with the production of this drug. In so doing, it will help Zeneca Pharmaceuticals continue its pledge to sustain programs such as its Patient Assistance Program, which provides tamoxifen free of charge to women who cannot afford it. Under this program, $40 million worth of tamoxifen has been distributed to 35,000 women. The duty suspension should also help Zeneca Pharmaceuticals continue its commitment to limit drug price increases to no greater than the National Consumer Price Index [CPI]. I look forward to early and favorable action on this legislation.•

• Mr. BRADLEY. Mr. President, I rise as an original cosponsor of this legislation to extend the suspension on the duty of tamoxifen citrate, a drug used to treat breast cancer patients. Identical legislation has been introduced on the House side as H.R. 466 by Congressman MOAKLEY.

In 1978, ICI Americas Inc., a company that has several plants in New Jersey, brought tamoxifen citrate to the market in the United States. According to the International Trade Commission, no comparable drug exists in the United States. Tamoxifen is used in conjunction with chemotherapy after breast cancer surgery.

This year alone, breast cancer will touch the lives of 180,000 of our mothers, sisters, daughters, coworkers, and friends. According to the National Cancer Care Foundation, Inc., one out of every nine American women will develop breast cancer in their lifetimes. ICI Americas Inc. has lent their support to addressing this national tragedy.

Because breast cancer does not discriminate along economic lines, ICI Americas Inc. has established a Patient Assistance Program through which over 25,000 lower income women from every state have received Tamoxifen. In 1991, ICI donated close to $8 million worth of Tamoxifen to women who could not otherwise afford it. They also have used the proceeds from this duty suspension to fund a 7-year research program testing the use of tamoxifen as a breast care prevention drug. I commend the efforts of ICI Americas Inc. to save future generations of women from suffering from this disease.•

• Mr. BREAUX. Mr. President, I am pleased to join my Senate colleagues as an original cosponsor of legislation which joins the battle against breast cancer by renewing the suspension of duties on a critical element of a drug used in this fight.

Taxmoxifen citrate is a component of an important drug which has shown great promise in fighting breast cancer. Not only is this drug critical to the successful treatment of breast cancer, but it also has shown great potential as a preventative measure against this terrible disease and several other diseases which affect women.

Tamoxifen citrate is not produced in the United States. The drug consequently must be imported into this country and is therefore ordinarily subject to U.S. tariff. I support renewal of this particular tariff suspension because this suspension will not adversely affect American business and more importantly suspension of this tariff would directly contribute to the fight against breast cancer both through aiding free dispensation programs and through encouraging additional research.

Once again, I am pleased to support this important legislation and urge my fellow colleagues to join in this cause.•

• Mr. LAUTENBERG. Mr. President, I am pleased to join as an original cosponsor of legislation to suspend duties on tamoxifen citrate, a drug used predominately to treat breast cancer patients. Senator BRADLEY and I introduced similar legislation in 1989.

Tamoxifen citrate is imported from the United Kingdom in bulk form, and converted into tablets by ICI Pharmaceuticals in the United States. According to the International Trade Commission, no comparable drug is manufactured in the United States.

Today, breast cancer is the most common type of cancer in women. Having experienced cancer in my own family, I know the terrible toll this disease can take. Tamoxifen citrate has been proven to delay recurrence of breast cancer in women who have exhibited early stages of the disease. In addition, a 2-year course of tamoxifen increases the 10-year survival rate by 8 percent above surgery alone.

In 1978, ICI Pharmaceuticals developed a patient assistance program so women who could not afford this drug would receive it free of charge. Since the program began, over 33,000 women have received over $25 million of tamoxifen citrate.

Mr. President, I urge my colleagues to support this measure.•

By Mr. JOHNSTON (for himself, Mr. AKAKA, and Mr. WALLOP):

S. 447. A bill to facilitate the development of Federal policies with respect to those territories under the jurisdiction of the Secretary of the Interior; to the Committee on Energy and Natural Resources.

INSULAR AREAS POLICY ACT

• Mr. JOHNSTON. Mr. President, today I am introducing legislation similar to a bill, S. 2959, which I introduced last year to develop and implement policies with respect to the territories of the United States: Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands. I believe that such legislation is needed because the way in which the Federal Government currently develops and implements policies with respect to the territories is outdated and ineffective. The reason for this problem is simple—the islands have undergone substantial political, social, and economic development in recent decades, but the Federal institutions responsible for territorial policy development and implementation have not kept pace with this development.

Historically, the territories were administered as agencies of the Federal

Government, with the Governor and other top officials serving as Federal officials appointed in Washington DC. Today, however, the territories have achieved a substantial degree of local self-government including locally elected Governors and legislatures. In fact, the territorial governments are essentially State-like in their character. Unfortunately, the institutions of the Federal Government that were intended to deal with the territories remain concentrated and isolated within the Department of the Interior.

The Department of the Interior was chosen as the lead agency for the island territories because of its traditional role as the administering agency for territories in the continental United States. Interior had been selected for this administrative role because of its control over the use and disposal of public lands, a fundamental factor in territorial economic development. In the case of the island territories, however, there is generally little land under Interior jurisdiction, and the Interior's leadership has, therefore, been less than ideal.

The concentration of territorial policy making within the Department of the Interior leads to other difficulties as well. First of all, many of the numerous Federal programs that have been established within the past few decades, and those of particular interest to the islands, are not under Interior's jurisdiction. For example, tourism, marine fisheries, and economic development assistance programs are all found within the Department of Commerce.

In other cases, Congress provides special treatment for the application of Federal programs in the islands in order to respond to local conditions. For example: Tax, trade, immigration, labor and environmental laws are applied differently in the islands. When there is a need to recommend or support such special treatment within the administration, the island governments look to Interior. Unfortunately, Interior finds itself in a weak and isolated position when advocating special treatment for the islands. Other agencies generally discount Interior's views regarding non-Interior programs, and they often give the islands a low priority when allocating program resources.

Finally, certain Federal agencies, particularly the Departments of State and Defense, have substantial interests in the islands, but they have no reliable institutional process to assure that their interests are integrated into Interior's policies.

One fact most clearly demonstrates the problem which Interior has had in developing and implementing territorial policies. In 1986, pursuant to section 302 of Public Law 99-239, Congress directed the Secretary of the Interior to submit a report to Congress on a Pacific noncontiguous areas policy, including recommendations on ways to accomplish such a policy. Today—7 years later—no such report has been submitted.

When I introduced S. 2959 last year, I stated that it was not my intention to move the bill in the closing months of the 102d Congress. Instead, I wanted to give the island governments and the administration an opportunity to consider the bill before scheduling hearings. While it is too early to have received formal comments from the new administration, the incoming Secretary of the Interior has made it clear in his initial appearances before the Congress that, while he is willing to consider the issue of reorganization, he is not prepared to take an approach that would reduce the Department's jurisdiction over these issues. Accordingly, the bill which I am introducing today has been modified from last year's proposal partly in response to the Secretary's concerns.

The primary purpose of this bill is to establish an interagency Insular Areas Policy Council, chaired by the Secretary of the Interior, and including the Secretaries, or appropriate designees, of State, Defense, Commerce, Treasury, Labor, Health and Human Services, Agriculture, the Administrator of the Small Business Administration, the Administrator of the Environmental Protection Agency, and the Attorney General. The Council would be charged with reviewing and coordinating the activities of Federal agencies in the islands; determining the appropriate role of the islands in U.S. domestic and foreign policy, and the effect of U.S. policies on the islands; considering policy recommendations of Council members; and proposing policies to the President and Congress.

This legislation specifies the role of the Secretary of the Interior in chairing the Council and in managing the development and implementation of a coordinated Federal territorial policy. These duties are to be accomplished largely through the process of developing and submitting to the Council, President and Congress, an annual "State of the Islands" report. The report would be drafted by the Department of the Interior, circulated to the island governments for comment and would then serve as a basis for Council discussions. Once approved by the Council and the President, the final report would serve as a statement of Federal policy objectives, and as a guide for policy implementation by Federal agencies and the Congress.

Finally, this legislation directs the Secretary of the Interior, to the maximum extent practicable, to use the personnel and services of other Federal agencies in carrying out his responsibilities with respect to the island territories. Other Federal agencies are directed to cooperate in making such personnel and services available, provided the Secretary of the Interior reimburse nonsalary and base benefit costs. These provisions are intended to foster interagency coordination by requiring greater exchange and cooperation between agency personnel. This exchange of personnel will expand other agency's awareness and experience with the special circumstances which exist in the islands, and will thus improve overall Federal-territorial relations.

The outgoing administration did not transmit any views on last year's proposal, but I have received initial, and generally favorable, comments on last year's bill from the island governments. Copies of these initial comments follow my statement.

Mr. President, instead of administering the islands, as in the past, Interior's new role in territorial policy must be, first, to coordinate the Federal Government's response to the requests of the territories to modify or fine tune the applicability of specific Federal programs in the islands; and second, to coordinate the Federal Government's response to territorial requests for fundamental changes in the nature of their relationship with the Federal Government.

Nearly all of the territories are currently debating fundamental change in their relationship with the Federal Government. Guam is seeking a Commonwealth status, the Commonwealth of the Northern Mariana Islands is engaged in discussions pursuant to section 902 of their covenant with the United States, and the Virgin Islands has scheduled a political status referendum for this coming November. A well-coordinated interagency approach is necessary if the Federal Government is to develop a coherent Federal response to these island's requests for fundamental change in their relationship with the United States.

With a new administration assuming the controls of Government there is an opportunity to rethink and improve Federal-territorial relations. The end of the cold war and a realignment of the Nation's military posture offers an opportunity to reexamine fundamental assumptions about Federal-territorial relations, and to develop and consider new approaches to these relations. I look forward to working with island leaders, the administration, particularly the new Secretary of the Interior, Bruce Babbitt, and with my colleagues in the Congress to update the way in which the Federal Government develops and implements territorial policy. Only then, will the Federal Government be able to properly respond to the concerns and requests of those citizens who live in the territories.

Mr. President, I ask unanimous consent that the attached letters and the text of the bill be printed in the RECORD following my statement.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 447

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That this Act may be referred to as the "Insular Areas Policy Act".

SEC. 2. DEFINITIONS.—For the purposes of this Act:

(1) the term "Secretary" means the Secretary of the Interior;

(2) the term "insular area" means the territories of Guam, the Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands (Palau) until such time as the Trust Territory of the Pacific Islands is terminated; and

(3) the term "Council" means the Insular Areas Policy Council as established under section 3 of this Act.

SEC. 3. INSULAR AREAS POLICY COUNCIL.—(a) In order to coordinate the actions of the Federal Government with respect to the insular areas under the jurisdiction of the Secretary, there is hereby established an Insular Areas Policy Council.

(b) The Council shall be composed of the following Federal officials or their designees: the Secretaries of State, Defense, Commerce, Treasury, Labor, Health and Human Services, Agriculture, Housing and Urban Development, Education, Veterans Affairs, the Administrator of the Small Business Administration, the Administrator of the Environmental Protection Agency, the Director of the Federal Emergency Management Agency, the Attorney General, and the Secretary of the Interior who shall serve as Chairman of the Council. the Chairman may request the participation of any other Federal agency in the work of the Council.

(c) The Council shall meet at such time as the Chairman may request, but not less often than twice a year to:

(1) review the activities of the Department of the Interior and other Federal agencies with respect to the insular areas;

(2) identify Federal funding priorities with respect to the insular areas;

(3) review and approve, with any modifications decided upon by the Council, the "State of the Islands" report pursuant to section 4 of this bill;

(4) determine the appropriate role of the insular areas in the foreign and domestic policy of the United States and the effects of such policy on those areas;

(5) make such recommendations to the President and the Congress regarding the insular areas as they determine to be appropriate; and

(6) consider any other appropriate matters which Council Members may suggest.

SEC. 4. REPORT.—(a) The President shall prepare and transmit a "State of the Islands" report (hereinafter in this section referred to as the "Report") to the appropriate Committees of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate not later than March 1 of each year.

(b) Each Federal agency with programs operating in the insular areas under the jurisdiction of the Secretary of the Interior shall report to the Secretary on such activities no later than November 15 of each year. The Secretary of the Interior shall prepare a draft of the Report and submit such draft to the head of government of each of the insular areas for comment. The Secretary shall then submit the Report, with such changes as he deems appropriate, to the Insular Areas Policy Council along with the comments which he has received from the insular area governments for review no later than January 15 of each year. After consideration by the Council, the Report shall be submitted to the President, with any modifications decided upon by the Council, for transmittal to the Congress.

(c) For each of the insular areas the Report shall include data summarizing social, economic, and political conditions and trends through the preceding fiscal years; a statement of current policy issues, foreseeable future developments, and recommended short-term and long-term policy objectives. The report shall include, but not be limited to, information for each insular area on: population; immigration and emigration; public health; crime and law enforcement; public infrastructure including utilities, transportation and communications; housing; income; private sector activities and development potential; employment; education and training; the fiscal position of the local government; amounts and uses of Federal direct and indirect assistance including, but not limited to, tax and trade policies; the efficiency of local government; international obligations or undertakings regarding the area; compliance with legislative mandates; a summary of any relevant Federal agency reports or audits; the applicability or inapplicability of Federal statutory and administrative actions and their effect; the effectiveness and delivery of Federal programs; significant differences in the treatment of the area or its residents under any Federal policy or program relative to the treatment of the States or their citizens, including the statutory basis for such treatment, the purposes therefor, and the effects thereof; and such information as is relevant to his responsibilities in the Republic of the Marshall Islands and the Federated States of Micronesia under Public Law 99-239, and the Republic of Palau after termination of the Trust Territory of the Pacific Islands. The Report shall clearly state the policy objectives of the President with regard to each of the insular areas, together with the specific proposals needed to accomplish such policy objectives.

SEC. 5. DUTIES OF THE SECRETARY.—The Secretary shall:

(a) provide Federal agencies with such information and advice as may be necessary to structure Federal programs, laws, or regulations affecting any insular area to the political, social, cultural and economic conditions in such insular area to further the objective of such program, law, or regulation and to prevent or reduce any adverse effect upon such insular area;

(b) inform the local government of any insular area of any Federal action which would significantly affect such insular area; solicit the comments and recommendations of such local government and provide those comments and recommendations together with the Secretary's analysis and advice to the head of the Department or Agency proposing such action; and

(c) in consultation with the governments of the insular areas, assist in the development of the priorities for, and the levels of, Federal assistance for the next fiscal year, including recommendations with respect to the allocation of funds among the various agencies with responsibilities in any of the insular areas and on the appropriate level of activity by each such agency in order to achieve Federal policy objectives.

SEC. 6. USE OF FEDERAL AGENCIES.—To the maximum extent practicable, the Secretary is authorized to use the personnel and services of other Federal agencies in carrying out his responsibilities with respect to the insular areas. The head of each Federal agency is directed to cooperate with the Secretary and to make such personnel and services available as the Secretary may request. The Secretary shall reimburse other Federal agencies for the cost of the use of personnel and services except for the cost of salary and base benefits, unless such costs are authorized to be provided on a nonreimbursable basis.

SEC. 7. AUTHORIZATION.—There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

VIRGIN ISLANDS OF THE UNITED STATES, OFFICE OF THE GOVERNOR,
St. Thomas, VI, May 3, 1989.

Hon. J. BENNETT JOHNSTON,
U.S. Senate,
Washington, DC.

DEAR SENATOR JOHNSTON: Thank you for your letter of March 29, 1989 transmitting draft legislation on the creation of the new Interagency Office of Insular Affairs.

After reviewing the proposal, I would like to express my full support for the intent of its provisions, with a few modifications.

First, I would recommend that the word "oversight" be added to the language which states in the draft that the administrator of the new office would have "jurisdiction" over the "populations" of the areas. The new language would read "oversight jurisdiction" over the population of the areas, and is more reflective of the modern realities of increasing self-government for the territories.

Consistent with the proposed change, I would also recommend that the language contained in the proposal which refers to "the insular areas under the responsibility of the administrator" be amended to read "the insular areas under the oversight jurisdiction of the administrator".

I appreciate the work that you have done in creating this measure and please let me know if I can be of assistance as this proposal goes through the legislative review process in the Congress.

Cordially,

ALEXANDER A. FARRELLY,
Governor.

TERRITORY OF GUAM,
Agana, Guam, August 21, 1992.

Hon. J. BENNETT JOHNSTON,
U.S. Senate,
Washington, DC.

HAFA ADAI MR. CHAIRMAN: Warmest regards from the Territory of Guam. I would like to express my appreciation for giving us the opportunity to consider S. 2959, Insular Areas Policy Act, before Senate hearings are scheduled to begin next year.

As you are aware, the insular areas, and in particular those in the Pacific (Guam, the Commonwealth of the Northern Marianas and American Samoa) each have unique geographic and cultural characteristics that separate us from one another and from the states. It is due to these unique differences that Guam has continuously requested to be consulted on matters affecting our political, social, cultural, and economic development in order that equitable solutions can be formulated to reduce the negative impact ensuing from foreign and domestic policies. This Act would give us the assurance that the interest of territorial governments are inte-

grated in the development and implementation of policies and programs of the Federal Government.

Because of the Act's potential positive impact, please be assured that serious attention and effort will be directed in the review of S. 2959. We will provide our comments as soon as our review has been completed. It is my hope that through a united effort, a true democratic partnership can be established. Thank you once again for the opportunity to review and comment on the proposed Insular Areas Policy Act.

Sinseramente,

FRANK F. BLAS,
Acting Governor of Guam.

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS, OFFICE OF THE GOVERNOR,
Capitol Hill, Saipan, December 11, 1992.

Re: Insular Area Policy Act—Your November 19, 1992 Letter.

Hon. J. BENNETT JOHNSTON,
U.S. Senate,
Washington, DC.

DEAR SENATOR JOHNSTON: Thank you very much for taking the initiative on policy reform. We look forward to testifying before your Committee when you re-introduce S. 2959 in the 103rd Congress.

There certainly is a need to re-organize the way the Federal Government develops and implements policies and programs with respect to the U.S. affiliated islands. I have requested my staff to thoroughly analyze your legislative proposal. Generally, we support the intent and general principles advanced by the bill. More details and specific comments will be supplied.

You understand well the problems and aspiration of the U.S. Flag Islands. We deeply appreciate your support for the island members of the U.S. political family. You have been a great supporter of the Commonwealth of the Northern Mariana Islands (CNMI).

Lastly, we offer congratulations for the Democratic victory at the last national election. We know that this victory should translate into real progress as the White House and the Congress are offered the advantages of unified leadership.

My best regards during this blessed holiday season. Again, we will get back to you with more detailed comments on your inspired legislation. Thank you for thinking of us.

Sincerely,

LORENZO I. DE LEON GUERRERO,
Governor.

REPUBLIC OF PALAU,
OFFICE OF THE PRESIDENT,
Koror, RP, January 13, 1993.

Re S. 2959.

Hon. J. BENNETT JOHNSTON,
U.S. Senate,
Washington, DC.

DEAR SENATOR JOHNSTON: I am in receipt of your letter of November 19, 1992, which included S. 2959 and your comments on same. I have carefully reviewed these documents and am pleased to be able to share my thoughts in this important area with you.

I would like to preface my comments by noting that the Republic of Palau is very appreciative of the special relationship which has evolved between our two nations over the last fifty years. With assistance from the United States we have been able to develop a unique system of government which combines a progressive democratic spirit with our own rich heritage of traditional customs.

Your comments display an admirable sensitivity to the issues which face the insular areas and the fact that fundamental changes "have occurred in the islands and in Federal-Territorial relations." Over the last fifteen years we in the Republic of Palau have seen the ratification of our Constitution and the formation of a Constitutional Government. These developments have been in keeping with the spirit of the Trusteeship Agreement pursuant to which the governments of the insular areas are to be encouraged to develop "self-government or independence" and "economic advancement and self-sufficiency."

The enunciated policy of S. 2959, to promote the "political, social, and economic development of the insular areas . . . consistent with their cultural values, to the levels enjoyed by the several States and to recognize the unique character of insular areas . . ." is a policy which I wholeheartedly support and which is clearly in accord with the Trusteeship Agreement.

I believe that there is a tendency on the part of the Department of Interior to micromanage the insular areas. This tendency, while perhaps admirably motivated, is ultimately inimical to the Trusteeship Agreement and stifling to the development of self-government. S. 2959 appears to recognize this limitation in the way in which the Department of Interior relates to the insular areas and proposes positive steps to alleviate this problem.

I plan on being in Washington later this month for President Clinton's inauguration and would enjoy meeting with you to discuss S. 2959 and the future relationship between our two nations.

Sincerely,

KUNIWO NAKAMURA,
President, Republic of Palau.

• Mr. WALLOP. Mr. President, I am pleased to join the chairman of the Energy and National Resources Committee, Senator JOHNSTON, in the introduction of the Insular Areas Policy Act.

If implemented, the legislation would significantly enhance the ability of the Secretary of the Interior to exercise his responsibilities over the territories subject to his jurisdiction. It should also assist in the overall coordination of the multitude of Federal programs which are applicable in the islands and will help to alleviate the problems which the territories have experienced when Federal agencies attempt to implement programs which are ill-suited to the particular conditions of the islands.

I would note that there is nothing in this legislation which the President could not initiate on his own. Hopefully the administration will do so after it has had a chance to review the measure and solicit comments from the territories. I know that there are more ambitious proposals floating around which would attempt a major reorganization, but I think those ideas are premature. Secretary Babbitt has assured the committee that he intends to take a personal interest in the problems facing the territories. Before we embark on a reorganization with uncertain prospects, I think we should give the Secretary an opportunity and some support. This measure would accomplish that.•

By Mr. JEFFORDS:

S. 448. A bill to amend the Federal Water Pollution Control Act to provide for additional certification requirements for certain licenses and permits, and for other purposes; to the Committee on Environment and Public Works.

HYDROPOWER AND OTHER FEDERAL PERMITS

Mr. JEFFORDS. Mr. President, I rise today to introduce legislation that will put power back in the hands of the people. Over and over the past few months, Americans have said they want decisions affecting their lives made closer to home, not in Washington. The bill I am introducing today will empower local people to protect their environment.

Specifically, Mr. President, the bill I introduce today will clarify that States may condition Federal licenses and permits as they see fit to meet the State's water quality goals. Section 401 of the Clean Water Act allows States to review Federal licenses and permits. Before such licenses can be granted, States must certify that granting the license will not adversely affect water quality. States use this authority to condition licenses. In other words, they have the licensee or permittee agree to meet whatever conditions are needed to project water quality.

The limits of this authority, however, are not clear. Many cases have gone to State and Federal courts, and even the Supreme Court. In my own State, a paper company is appealing a court decision to the Supreme Court. The State of Vermont seeks to place conditions on a hydropower license sufficient to protect the State's interests. The manufacturer argues that the State has overstepped its authority. The Supreme Court is left to decide ultimately who is right.

In my capacity as a Senator from Vermont, I support the State's position. My bill clarifies that States do have the authority to protect their water quality. This legislation would amend the Clean Water Act to make it clear that States can use section 401 to protect their interests. I believe State governments, being closer to the people in the State, will more times than not, act in the best interests of the people. Thus, I do not believe that this authority would generally be abused.

I introduced similar legislation in both the 101st and 102d Congresses. I heard from over half of the States that they too supported this legislation. Their support for my past efforts, I believe, was instrumental in defeating efforts to weaken environmental protection in last year's energy bill. Thankfully, we were left with no less protection than the status quo. This year, I hope we can provide additional environmental protection. I look forward to working on this issue with my colleagues and hope for prompt action on this legislation.

By Mr. JOHNSTON (for himself and Mr. LOTT):

S. 451. A bill to establish research, development, and dissemination programs to assist in collaborative efforts to prevent crime against senior citizens, and for other purposes; to the Committee on the Judiciary.

NATIONAL TRIAD ACT

• Mr. JOHNSTON. Mr. President, I rise today with the junior Senator from Mississippi and several colleagues from both sides of the aisle to introduce the National Triad Act. This legislation is virtually identical to that which passed the Senate last September with 54 cosponsors. It will help to expand a very innovative concept whose effectiveness is well proven in alleviating crime-related problems facing some very important people: Our senior citizens, many of whom have either been the victim of some type of crime, or live in fear of becoming victims.

We all know about the increasing and alarming crime rate across the Nation. All too often we overlook the devastating impact of fear of crime and victimization that plague senior citizens every day. Countless problems face our seniors who are victims of abuse and neglect, violent crime, property crime, consumer fraud, medical quackery, and confidence games. We must respond with new initiatives to address those problems. That is why I am so encouraged about the triad program which is already working on a small scale to assist older people and the law enforcement officers who protect them.

Very briefly, the triad program was created through a partnership among the National Sheriffs' Association [NSA], the International Association of Chiefs of Police [IACP], and the American Association of Retired Persons [AARP] to address the issue of crime and the elderly. I first learned about the triad program from Sheriff Charles Fuselier of St. Martin Parish, LA, who initiated the very first local and State triad in St. Martin Parish and shared with me the success of his efforts. Now, as a result of the success in St. Martin Parish and concerns raised about the well-being of the elderly by law enforcement officers like Sheriff Fuselier and other seniors organizations, the triad concept has been expanded to eight different locations throughout Louisiana and over 75 locations throughout the Nation.

I was so impressed with the success of the triad program in Louisiana that I requested the Senate Special Committee on Aging to hold a field hearing in Lafayette, LA to examine the issue of crime and the elderly and take a closer look at the triad program. We held this hearing in August, 1991 at the University of Southwestern Louisiana. Over 500 seniors from throughout Louisiana attended, including participants from the triad program. Sheriff Fuselier as well as representatives from AARP and IACP told us how to establish a triad program. We also learned of the important role triad plays in prevention efforts and assistance to elderly crime victims. More importantly we heard from some very courageous individuals who were victims of crime about the assistance they received from triad programs established in south Louisiana.

The law enforcement officers, seniors organizations and victim assistance organizations who testified before the committee quickly convinced me that the triad approach is one of the most effective ways to help our older citizens.

Since I learned about this concept, I've pursued every opportunity to expand this innovative approach in my home State as well as nationwide. For example, last year I coauthored S. 2484, the National Triad Act, which passed the Senate last session overwhelmingly with 54 cosponsors. Unfortunately, due to the adjournment of the 102d Congress this measure was not considered by the House of Representatives. Today I am renewing my efforts by introducing this legislation along with Senator LOTT.

Our bill was drafted with the help of seniors organizations and law enforcement representatives to better serve elderly victims and the older Americans who fear crime every day. It is virtually identical to the bill that passed the Senate last year. A new provision will authorize $6 million jointly to the National Institute of Justice [NIJ] and the Bureau of Justice Assistance [BJA] to expand and promote the triad concept. Of this, $2 million will be authorized for NIJ to conduct research, a national assessment and evaluate the triad pilot programs and $4 million will be authorized for BJA to fund 50 nationwide 12-month triad pilot programs, a technical assistance and national training effort, and a national promotion campaign. Also, to ensure the pilot programs represent a diverse cross section of the crime related problems facing senior citizens, the Director of BJA will distribute the pilot awards among three categories based on county populations of less than 50,000, between 50,000 and 100,000, and 100,000 or more.

Seniors and law enforcement officers have already shown through the existing triad programs what can happen when these groups work together. They expand crime prevention dramatically and deliver services much more effectively to older victims of crime. To be effective, programs modeled after the triad concept must be implemented at the local level throughout the Nation. The legislation we are introducing today is a significant first step in expanding the crime prevention partnership which has evolved through the triad concept. It will help seniors and law enforcement officials obtain the necessary resources to expand the triad concept nationwide to protect some of our Nation's most vulnerable individuals, our senior citizens.

This concept is supported by many individuals and associations who have seen its promise as I have. I hope my colleagues will see its promise, too, and the Senate will move quickly to approve it.

I ask consent that a number of letters endorsing the triad program from individuals and organizations be printed in full at the end of my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMERICAN ASSOCIATION
OF RETIRED PERSONS,
Washington, DC, February 24, 1993.

Hon. BENNETT JOHNSTON,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR JOHNSTON: On behalf of the American Association of Retired Persons, I am writing to thank you for introducing the "National Triad Program Act". The Association strongly supports this legislation, which will encourage research, program development, and information dissemination to assist states and units of local government in their efforts to prevent crime, assist crime victims, and educate the public regarding crimes against the elderly.

AARP believes communities can greatly benefit from programs that bring together law enforcement authorities, consumer advocacy organizations, and ordinary citizens to identify and implement crime prevention strategies. The Association has worked in coalition with the National Sheriffs' Association and the International Association of Chiefs of Police for many years to accomplish just such aims. We are pleased that the "Triad" model has provided the inspiration for this legislation.

If funded, the demonstration programs authorized under this bill would be useful to law enforcement agencies and organizations representing the elderly around the country as constructive examples of how to deal with crimes against the elderly. The Association believes that this bill will permit and encourage older persons to make a personal investment preventing and reducing their own criminal victimization. It is important and empowering for seniors to play an active role in developing the programs that serve them.

Again, AARP wishes to express its appreciation for your interest in supporting efforts to prevent and reduce crimes against the elderly through introduction of the National Triad Program Act.

Sincerely,

JOHN ROTHER,
Director, Legislation
and Public Policy.

NATIONAL SHERIFFS' ASSOCIATION,
Alexandria, VA, February 2, 1993.

Hon. J. BENNETT JOHNSTON,
U.S. Senate, Washington, DC.

DEAR SENATOR JOHNSTON: We at the National Sheriffs' Association share your concern about our nation's rapidly growing elderly population—the criminal victimization and fear of crime which virtually destroy positive quality of life for a large number of older persons. We are grateful for your ongoing support of the National Triad Program Act bill. It means a great deal to the sheriffs across the nation. As an original co-sponsor reintroducing the bill this year, you are taking a step to call attention to the plight of older persons who live in fear of crime—and

to develop a workable solution to their problems. This bill will make it possible for new and existing Triads to do a better job of reducing criminal victimization and the sometimes unwarranted feat of crime experienced by the elderly.

The National Sheriffs' Association, representing and working with our nation's 3,095 sheriffs, has become increasingly aware of the crime-related problems of our older citizens. We are working closely with the American Association of Retired Persons and the International Association of Chiefs of Police to increase law enforcement's awareness and ability to respond to the crime-related needs of the elderly, and to expand crime prevention efforts. We believe it is urgent that we appropriate funds and bring to bear the resources to alleviate unwarranted fear and equip our communities to assist more effectively older victims of crime and abuse.

The bill will make it possible for new and existing Triads to do a better job of reducing elderly criminal victimization.

Senator Johnston, thank you for your concern and for taking action to make a difference for millions of older Americans.

With profound thanks to you and your staff, I am

Sincerely,

CHARLES B. MEEKS,
Executive Director.

NATIONAL DISTRICT
ATTORNEYS ASSOCIATION,
Alexandria, VA, August 6, 1991.

Hon. J. BENNETT JOHNSTON,
Senate Office Building,
Washington, DC.

DEAR SENATOR JOHNSTON: Thank you for the opportunity to comment on the Triad Program for the elderly.

Law enforcement officials like myself are struggling to combat crime at every level, but few things are more vexing than the continued victimization of the nation's elderly. Older adults are at a crucial time in their lives. They have a right to expect these to be the good years, a time to relax and enjoy their families and the fruits of a lifetime of hard work. Instead they are being routinely swindled and assaulted.

The Triad Program is an important means of helping to fight these kinds of crime. It is important because we in the criminal justice system cannot fight the battle alone. We need a cooperative, multidisciplinary approach through which both seniors and law enforcement officials gain a greater appreciation of the problems and what can be done about them. Triad provides the support older citizens need to come out of hiding and talk to law enforcement officials about their fears and concerns. It also equips the elderly with the information they need to prevent crime and to deal with it when it does occur.

The two year program has also helped make law enforcement officials more responsive to the community. Triad contributes new perspectives to officials, altering them to senior citizens' concerns and fears. There is also evidence that the program encourages seniors to report crimes and has led to arrests. In St. Martin Parish here in Louisiana, the Triad Program sponsored a nurse to speak to officers about how to work with the elderly and their particular infirmities.

Programs like Triad are especially necessary in these times of shrinking government resources. While largely community-based and inexpensive, the program requires some national support, primarily to provide a clearinghouse of information about educational programs and organizational matters. I hope that you and your colleagues will nurture the Triad Program and through your support, encourage even greater community action.

Yours very truly,

RICHARD P. IEYOUB.

NATIONAL SHERIFFS' ASSOCIATION,
Alexandria, VA, August 23, 1991.

Hon. J. BENNETT JOHNSTON,
Special Committee on Aging,
U.S. Senate,
Washington, DC.

Dear Senator JOHNSTON: The problem of the criminal victimization of senior citizens is of deep concern to the 3,096 sheriffs of our nation and the more than 14,000 police chiefs who protect and serve an ever increasing number of elderly persons in their respective jurisdictions. At the National Sheriffs' Association we are grateful to the spotlight you are focusing on the crime-related problems of the elderly, and on the Triad approach to assisting these persons.

We believe that the Triad concept is one of the very best means of reducing criminal victimization—and involving older persons in the solution. The Triad offers a logical integrated approach, as sheriffs, police chiefs, and older persons work cooperatively on the national, State and local level.

Advertising the Triad concept to law enforcement officials is a critical need—as well as technical assistance as fledgling Triads begin their work. It is important to involve senior citizens in an advisory council which assists the local sheriff's and police departments. It is important to give our sheriffs and chiefs the knowledge and tools they need to better protect and serve their elderly populations.

NSA stands wholeheartedly behind the Triad concept—a solution for the 1990's and beyond. Thank you for your concern—and your assistance in our quest for grant assistance from the Bureau of Justice Assistance or other Federal funding sources.

Sincerely,

CHARLES B. MEEKS,
Executive Director.

COLUMBUS POLICE DEPARTMENT,
Columbus, GA, August 7, 1991.

Hon. J. BENNET JOHNSTON,
Special Committee on Aging,
U.S. Senate,
Washington, DC.

DEAR SENATOR JOHNSTON: In reference to the correspondence received from your office dated July 25, 1991, the following information is being submitted for your committee record on the issue of Crime and the Elderly.

On June 13, 1991 the Columbus Police Department, the Muscogee County Sheriff's Department and the local American Association of Retired Persons entered into agreement and signed a resolution in support of adoption of the TRIAD concept in Columbus, Georgia. At the present time, we are in the process of identifying members of the community to function on the S.A.L.T. Advisory Council. Members of the council will consist of representatives from public and private organizations that will be valuable in assisting in formulating goals and objectives to address crime-related issues which impact the elderly in Muscogee County.

The long range expected results of the TRIAD will be to reduce criminal victimization of older persons and to enhance the delivery of law enforcement services to the elderly. With involvement of the S.A.L.T. Council, hopefully this will improve the overall quality of life for older residents of our community.

Respectfully,

W.J. WETHERINGTON,
Chief of Police.

W.L. DOZIER,
Major, Bureau of Administrative Services.

DEPARTMENT OF POLICE,
Landy, UT, August 13, 1991.

Hon. J. BENNETT JOHNSTON,
Special Committee on Aging,
U.S. Senate,
Washington, DC.

DEAR SENATOR JOHNSTON: I received your letter of July 25, 1991, regarding the hearings on issues of Crime and the Elderly. We are vitally interested in the Triad Concept and are actively seeking to establish a local program.

At this time the Triad is in the early planning stages. Our County just recently elected a new Sheriff who is very receptive to the program. We have had a preliminary meeting with the Utah Council on Crime Prevention which will be the umbrella for the Triad Program. The State Triad proposal will consist of a representative of the Sheriff's Association, the Chief's Association and a representative of AARP.

We then propose to establish local SALT units in the County. Locally, we have not experienced a high incident of crimes identified with the elderly. This is probably due to the low percentage of over 65 year population.

We do expect the problems to increase because there has been a dramatic increase in the elderly over the last five years.

Our purpose in participating in the Triad is to establish a preventive program before the problems manifest themselves.

I appreciate your interest in furthering the Triad Concept and if I can be of any assistance, please feel free to contact me.

Sincerely,

GARY J. LEONARD,
Chief of Police.

POLICE DEPARTMENT,
Newark, DE, August 21, 1991.

Hon. J. BENNETT JOHNSTON,
Special Committee on Aging,
U.S. Senate,
Washington, DC.

DEAR SENATOR JOHNSTON: In response to your request concerning my exposure to the TRIAD program, I would first say that it has been a very positive experience for a number of reasons. On a personal level, it has heightened my awareness of the criminal victimization as well as the fear that elderly citizens feel even when they are not personally victimized. This fear of becoming a victim often times results in elderly citizens locking themselves away in their homes.

On a national level, the TRIAD program is combining the resources of the National Sheriffs' Association, the International Association of Chiefs of Police, and the American Association of Retired Persons to create a greater focus and communication on issues relating to the criminal victimization of older persons. I serve as a member of the Crime Prevention Committee for IACP and was first exposed to the TRIAD while attending committee meetings. I also had the good fortune of attending the first TRIAD training program at the FBI Academy in Quantico, Virginia. This training has caused me to create a senior volunteer program within the Newark Police Department. We currently have four senior volunteers who spend time each week working side by side with our full-time employees. I have found

this to be extremely beneficial both in terms of the contributions these citizens make to the Police Department and the positive interaction that occurs between the volunteers and the full-time employees.

In addition, we have enhanced our crime prevention activity relating to our older citizens. We interact frequently with the Senior Center in Newark by providing programs and sources of information geared towards the senior citizens.

To make the TRIAD program more effective, I would suggest that funding be made available for additional training sessions at the FBI Academy and ensure that three associations involved in the TRIAD concept continue to promote the principles and benefits of this program through their magazines and literature.

Concerning the establishment of a S.A.L.T. Council, I made one effort previously to put this Council in place but was unable to generate sufficient interest. I intend to redouble my efforts in the near future since I feel it is an intricate part of establishing the TRIAD concept at the local level.

The Newark Police Department provides a number of programs to focus on preventing crime. We continue to make presentations to the senior community concerning issues relating to burglary prevention, fraud, and sexual assault awareness. Additionally, we provide surveys of homes and recommend proper locks and security devices to lessen the chance of burglary. We are strongly promoting neighborhood watch programs through various civic associations—many of which have a strong membership of older citizens. We are providing the neighborhood watch programs with signs, marking of personal property, and specific crime trend data relating to their neighborhoods.

I am enclosing a pamphlet concerning demographics of Newark which indicates that approximately 12 percent of our population is made up of citizens 55 years of age or older. In terms of victimization of elderly citizens when compared to the general population, I find there is a low victimization rate in Newark. I have also found that older citizens feel more vulnerable to being victimized and their fears increase with the aging process. Specific experiences in Newark relate to burglaries where older citizens have failed to lock their doors while in the backyard working or when several persons described as "gypsies" have distracted the victim while other members of the group enter the premises and commit a burglary in a matter of minutes. We have also had reports of elderly citizens being victimized through con games such as providing services such as roofing, painting, or blacktopping without actually delivering the specified services. In the past year, we had an incident where an elderly female was raped by an unknown suspect. This created a great deal of fear among older female citizens who live alone.

In response to the question of drug-related crime and elderly victimization, I feel that many burglaries are the result of attempting to obtain property to resell in order to purchase drugs. In terms of family members victimizing the elderly, I have experienced some cases of elder abuse and also have observed older grandchildren steal from their grandparents to obtain money for drugs.

The relationship of the Newark Police Department and the senior community has been very positive. It has been my experience that older persons are generally very supportive of police in their communities and look to them for security and protection.

I hope the above information has given you some insight to the efforts of the Newark Police Department in serving our older citizens as well as the benefits of the TRIAD program. It is my personal belief that with the graying of America, older Americans will be more subject to victimization, and it will become more important for police agencies to work closely with the older segment of the population and support one another for the mutual benefit of all parties concerned.

If I may be of further assistance, please do not hesitate to contact me.

Sincerely,

WILLIAM A. HOGAN,
Chief of Police.

LOUISIANA COMMISSION ON LAW ENFORCEMENT AND ADMINISTRATION OF CRIMINAL JUSTICE,
Lafayette, LA, July 30, 1991.

Hon. J. BENNETT JOHNSTON,
Chairman, Special Committee on Aging,
U.S. Senate,
Lafayette, LA.

DEAR SENATOR JOHNSTON: Crime committed against senior citizens is a serious and growing problem in Louisiana. The elderly are among society's most vulnerable victims. Indeed, it is not just crime, but the fear of crime among the elderly which seriously detracts from their quality of life.

Among the most innovative and effective methods for attacking the problem of crime against the elderly is the Triad concept. Briefly, the Triad concept is a method of bringing together those most concerned with the problems of crime and the elderly in an effective framework for action. The parts of the Triad are: The Sheriff, the Chief of Police, and senior citizen leaders from the community. This group works together to reduce the criminal victimization of older persons and enhance the delivery of law enforcement services to senior citizens. The Triad concept is an excellent mechanism for improved service delivery to, and protection of the senior citizens in the community because it directly involves the seniors themselves in law enforcement decision making at the highest levels.

Because the Triad is a new and innovative concept, there is a great need to have a central clearinghouse for obtaining information on how to organize and effectively operate a Triad program. In addition, there is a need to provide technical assistance to those communities working to implement a Triad. These steps would go a long way toward empowering individual communities to effectively address the problem of crime against the elderly. Such support would be an excellent example of federal leadership, in partnership with the states and local communities, in addressing a serious social problem.

It is my hope that the committee will carefully consider the potential benefits to the senior citizens of this nation which would be derived from implementation of the Triad concept. I realize that there are many diverse and worthy programs affecting the elderly which are deserving of your attention, but it is my view that the Triad concept is among the very most important because it directly affects a serious problem which is too often neglected. Crime and the fear of crime do more harm to the quality of life among the elderly than almost any other factor except health. The Triad concept is an effective, grass roots method for attacking the crime problem and its impact on the elderly.

Thank you for your kind consideration. If you have any questions relating to crime and the elderly, or the Triad concept, please do not hestiate to call.

Sincerely,

MIACHEL A. RANATZA,
Executive Director.

INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE,
Alexandria, VA, February 25, 1993.

Hon. J. BENNETT JOHNSTON,
U.S. Senate,
Senate Hart Office Building,
Washington, DC.

DEAR SENATOR JOHNSTON: The International Association of Chiefs of Police (IACP) would like to commend you and Senator Lott on today's introduction of legislation to advance the Triad concept.

Many of our member police chiefs have participated in these programs and can testify to their effectiveness. Meaningful dialogue among law enforcement groups and senior citizens helps to identify and reduce the exposure of older adults to crime.

Attached please find a copy of the IACP's most recent resolution in support of TRIAD.

Sincerely,

STEVEN R. HARRIS,
President.

• Mr. LOTT. Mr. President, I rise today to join my good friend, Senator BENNETT JOHNSTON, in introducing a bill that would establish programs to assist State and local law enforcement agencies in preventing crime against the elderly.

Nationally, older Americans are the most rapidly growing segment of our society. The elderly comprise a little over 15 percent of our population, and predictions indicate that, by the turn of the century, the number will grow to nearly 20 percent of our Nation's population.

According to the latest figures from the 1990 U.S. census, in my own State of Mississippi, people age 65 and older accounted for 321,284 of the State's population of 2,573,216. This represents an 11-percent increase for people age 65 and above since 1980.

Our senior citizens are too frequently in victims of elder-abuse and neglect, violent crime, property crime, consumer fraud, medical quackery, and confidence games.

According to the February 1993 report by the National Aging Resource Center on Elder Abuse [NARCEA], the number of State compiled reports of domestic elder abuse rose to 277,000 in fiscal year 1991, from 211,000 in fiscal year 1990, an increase of 7.6 percent, from fiscal year 1990.

Over the last 5 years, elder abuse has increased 94.0 percent, according to reports received from fiscal year 1986 to fiscal year 1991.

According to NARCEA's statistics adult children were the most frequent abusers of the elderly in domestic settings—31.9 percent during fiscal year 1990 and 32.5 percent in fiscal year 1991 in 21 States. Spouses were second 15.4 percent, during fiscal year 1990 and 14.4 percent in fiscal year 1991 in 21 States, and the category of other relatives followed closely behind spouses and

ranked third, 13.0 percent during fiscal year 1990 and 12.5 percent in fiscal year 1991 in 21 States.

The majority of abusers of the elderly in domestic settings were males 52.3 percent, in 17 States in fiscal year 1990 and 51.8 percent in 18 States during fiscal year 1991.

Over the past several weeks, Senator JOHNSTON and I have been working with representatives of the National Sheriffs' Association, the International Association of Chiefs of Police and the American Association for Retired Persons, to draft legislation that will protect our Nation's elderly. We have come out of our meetings unified, with the sole purpose of promoting a nationwide Triad program.

The Triad concept, which was first conceived in the fall of 1987, is a commitment among chiefs of police, sheriffs, and seniors to work together to reduce both criminal victimization and the unwarranted fear of crime which often plagues this underserved population. Eleven States have signed Triad agreements, and some 70 local Triads are already in operation.

A good example of the Triad concept in action is in Georgia, where State sheriffs, chiefs and Georgia AARP chapters have joined together to establish Triad programs statewide.

The Triad in Georgia has set up local committees of 12–15 seniors and law enforcement personnel known as SALTS, which stands for Seniors and Lawmen Together. The committees foster a closer working relationship between the agencies and the senior citizens they serve.

The Triad sponsors training opportunities for law enforcement agency staff on dealing effectively with the elderly, the demographics of aging, myths and facts relating to aging, and the enhancement of communication between the agencies and senior citizens.

The program helps law enforcement officials meet the needs of the elderly while opening the door for seniors to volunteer with their local Police or Sheriffs Departments.

Volunteers do not take the place of patrol officers, but they do assist law enforcement officers by working as Crime Stoppers and helping law enforcement establish operational neighborhood watch programs. Beyond a doubt, seniors' involvement in these areas would make a tremendous impact on behalf of their communities.

My State of Mississippi has recently been introduced to the concept of the Triad program. Sheriff Tommy Ferrell of the Adams County Sheriffs' Department in Natchez, MI and Sheriff C. V. Glennis of the Pike County Sheriffs' Department in Magnolia, MI, along with members of the National Sheriffs' Association and seniors in their community are in the planning stages of establishing Triad programs in Adams County and Pike County.

Due to the ever-increasing elderly population in Mississippi, I believe our State offers the perfect proving ground for this program.

My legislation would direct the National Institute of Justice [NIJ] to conduct a national assessment of the nature and extent of crimes against the elderly. The NIJ would work in concert with the Bureau of Justice Assistance [BJA], which will be awarding grants to coalitions of local law enforcement entities, victim service providers, and organizations representing the elderly to fund up to 50 Triad-style programs.

Triad activities typically are no-cost or low-cost, and it is anticipated that community sponsors will defray some expenses.

This bill would authorize $6 million to carry out the following programs: $2 million would be authorized to BJA in order to set up 50 pilot programs; $1 million would be available for national training and technical assistance; $1 million for developing public service announcements; and the remaining $2 million would be authorized for the national assessment to be compiled by NIJ, as well as the evaluation of pilot programs that will serve as models for future Triad developments.

Our concern for the Nation's elderly is neither radical or new. However, the idea of chiefs, sheriffs and local law enforcement combining their efforts with local or State AARP or seniors group volunteers, in the interest of seniors, is an innovation.

Less than one-third of all crimes are reported to the authorities. It is programs like: McGruff, DARE, Neighborhood Watch, Operation ID, and now Triad that work in concert to battle crime.

To stop the violence, everyone—young and old—should start reporting crime. As long as criminals remain free to victimize innocent citizens, we will remain a Nation behind bars.

The Triad program, and those like it, are a major step in the right direction to curb crime, and help the elderly feel secure in their communities.●

By Mr. CONRAD (for himself, Mr. DORGAN, Mr. SHELBY, Mr. DASCHLE, Mr. AKAKA, Mr. LEVIN, Mr. EXON, Mr. DECONCINI, Mr. KOHL, Mr. RIEGLE, Mr. PRESSLER, Mr. BOREN, Mr. BINGAMAN, Mr. BAUCUS, Mr. KRUEGER, Mr. PRYOR, Mr. FORD, Mr. GRAHAM, and Mr. D'AMATO):

S. 452. To amend chapter 17 of title 38, United States Code, to establish a program of rural health care clinics, and for other purposes; to the Committee on Veterans' Affairs.

VETERANS RURAL HEALTH CARE CLINIC PROGRAM

Mr. CONRAD. Mr. President, I am introducing legislation today to require the Department of Veterans' Affairs to examine alternatives including the expanded operation of stationary rural and mobile health care clinics, to improve access to health care services for veterans living in rural and geographically remote areas from VA health care facilities.

I am pleased that Senators DORGAN, SHELBY, DASCHLE, AKAKA, LEVIN, DECONCINI, KOHL, RIEGLE, PRESSLER, BOREN, EXON, BINGAMAN, BAUCUS, KRUEGER, PRYOR, GRAHAM, FORD, and D'AMATO are joining as original cosponsors of this important rural health care initiative for veterans.

As my colleagues may recall, early in the first session of the 102d Congress, I introduced legislation (S. 1424), to require the Department of Veterans' Affairs to expand a new mobile clinic health care program, authorized under Public Law 100–322, for rural veterans seeking VA health care. Under this 2-year pilot DVA mobile clinic demonstration which became operational last November, six States—Arizona, Maine, Missouri, Vermont, Washington, and North Carolina—were selected to participate in the program.

In S. 1424, I proposed that 24 States not participating in the demonstration program—all States with a significant rural veterans population—have the opportunity to extend health care services to rural veterans through the operation of mobile clinics.

During the closing days of the 102d Congress—October 1, 1992—the Senate adopted a compromise to S. 1424 relating to improved access to VA healthcare facilities that was included as a provision of S. 2575, the Veterans Health Programs Improvement Act of 1992, title IV-Rural Health Care Clinics.

Under S. 2575, title IV, Rural Health Care Clinics, the Department of Veterans' Affairs was required to establish and evaluate, over a 3-year period, several options for furnishing health-care services for veterans living in rural areas of the country including: First, mobile health-care clinics operated by DVA personnel; second, part-time stationary clinics operated by DVA personnel; and third, part-time stationary clinics operated under contract with non-DVA entities. Funding, totaling $18 million, was authorized for the establishment of 9 rural/mobile health care clinics.

The rural health care clinic initiative that my colleagues and I are introducing today, is identical to the rural health care clinic initiative that was reported by the Senate Committee on Veterans' Affairs in the Veterans Health Programs Improvement Act (S. 2575) and passed by the Senate last October. This rural health initiative again authorizes $18 million to support the establishment of 9 new rural/mobile health care clinics in fiscal years 1994–96.

Mr. President, I believe this initiative, on behalf of veterans living in rural America, is especially timely as

the Clinton administration and Congress examine health care reform and the complex task of improving access to health care for all Americans.

The rural health care clinic initiative should also be examined carefully as Secretary of Veterans' Affairs Jesse Brown reviews the VA health care budget, eligibility reform issues and the recommendations of the Commission on Future Structure of Veterans Health Care which urge that the "VA use a wide range of innovative approaches to improve health care and services for veterans who have special access problems."

Without question, many veterans living in rural and geographically remote areas of the country, have difficulties accessing VA health care. As I have noted in testimony before the Senate Committee on Veterans' Affairs, more than 131,000 veterans, according to the DVA, live in counties that are 2 hours from the nearest DVA health care facility.

In North Dakota, for example, over 34,000 individuals, more than 50 percent of the States' veterans population, live in counties 100 miles or more from the Fargo DVA Medical Center—the only DVA health care facility in the State. More than 15,000 of these veterans live in counties in the western and northern part of the State—places that the DVA has designated as medically underserved areas.

Because of where these veterans live, as well as the limitations on DVA funding to open new medical facilities or clinics, many are not receiving the benefits of health care to which they are entitled at a Department of Veterans' Affairs medical facility.

Mr. President, we have an obligation to provide for veterans with the best and most accessible health care possible. In responding to the health care requirements of rural veterans who have special access problems, we must rely on innovative approaches to assist those veterans living in isolated, rural areas of the country.

I believe the rural health care clinic initiative offers the Department of Veterans' Affairs an excellent opportunity to implement some of the recommendations of the Commission on the Future Structure of Veterans Health Care relating to rural health care. I urge my colleagues to support this measure and I welcome additional cosponsors of the Rural Health Care Clinic initiative.

I ask unanimous consent that the text of this legislation along with the background information prepared last year by the Senate Committee on Veterans' Affairs on title IV—Rural Health Care Clinics—of S. 2575, be printed at the conclusion of my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 452

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RURAL HEALTH-CARE CLINIC PROGRAM.

(a) PROGRAM.—(1) Chapter 17 of title 38, United States Code, is amended by adding at the end of sub-chapter II the following new section:

"§ 1720E. Rural health-care clinics: pilot program

"(a) During the three-year period beginning on October 1, 1993, the Secretary shall conduct a rural health-care clinic program in States where significant numbers of veterans reside in areas geographically remote from existing health-care facilities (as determined by the Secretary). The Secretary shall conduct the program in accordance with this section.

"(b)(1) In carrying out the rural health-care clinic program, the Secretary shall furnish medical services to the veterans described in subsection (c) through use of—

"(A) mobile health-care clinics equipped, operated, and maintained by personnel of the Department; and

"(B) other types of rural clinics, including part-time stationary clinics for which the Secretary contracts and part-time stationary clinics operated by personnel of the Department.

"(2) The Secretary shall furnish services under the rural health-care clinic program in areas—

"(A) that are more than 100 miles from a Department general health-care facility; and

"(B) that are less than 100 miles from such a facility, if the Secretary determines that the furnishing of such services in such areas inappropriate.

"(c) A veteran eligible to receive medical services through rural health-care clinics under the program is any veteran eligible for medical services under section 1712 of this title.

"(d) The Secretary shall commence operation of at least three rural health-care clinics (at least one of which shall be a mobile health-care clinic) in each fiscal year of the program. The Secretary may not operate more than one mobile health-care clinic under the authority of this section in any State in any such fiscal year.

"(e) Not later than December 31, 1997, the Secretary shall submit to Congress a report containing an evaluation of the program. The report shall include the following:

"(1) A description of the program, including information with respect to—

"(A) the number and type of rural health-care clinics operated under the program;

"(B) the States in which such clinics were operated;

"(C) the medical services furnished under the program, including a detailed specification of the cost of such services;

"(D) the veterans who were furnished services under the program, setting forth (i) the numbers and percentages of the veterans who had service-connected disabilities, (ii) of the veterans having such disabilities, the numbers and percentages who were furnished care for such disabilities, (iii) the ages of the veterans, (iv) taking into account the veterans' past use of Department health-care facilities, an analysis of the extent to which the veterans would have received medical services from the Department outside the program and the types of services they would have received, and (v) the financial circumstances of the veterans; and

"(E) the types of personnel who furnished services to veterans under the program, including any difficulties in the recruitment or retention of such personnel.

"(2) An assessment by the Secretary of the cost-effectiveness and efficiency of furnishing medical services to veterans through various types of rural clinics (including mobile health-care clinics operated under the pilot program conducted pursuant to section 113 of the Veterans' Benefits and Services Act of 1988 (Public Law 100-322; 38 U.S.C. 1712 note)).

"(3) Any plans for administrative action, and any recommendations for legislation, that the Secretary considers appropriate.

"(f) For the purposes of this section, the term 'Department general health-care facility' has the meaning given such term in section 1712A(i)(2) of this title.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1720D the following new item:

"1720E. Rural health-care clinics: pilot program.".

(b) AUTHORIZATION OF APPROPRIATIONS.—(1) There is authorized to be appropriated to the Department of Veterans Affairs to carry out the rural health-care clinics program provided for in section 1720E of title 38, United States Code (as added by subsection (a)), the following:

(A) For fiscal year 1994, $3,000,000.

(B) For fiscal year 1995, $6,000,000.

(C) For fiscal year 1996, $9,000,000.

(2) Amounts appropriated pursuant to such authorization may not be used for any other purpose.

(3) No funds may be expended to carry out the rural health-care clinics program provided for in such section 1720E (as so added) unless expressly provided for in an appropriations Act.

BACKGROUND

TITLE IV—RURAL HEALTH-CARE CLINICS

Background

The Committee has long been interested in and concerned about access to VA health-care services for veterans in rural areas. In July 1983 and again in November 1989 the Committee held hearings on this issue. At both hearings the Committee heard testimony about problems affecting veterans living in rural areas, including problems associated with travel distances, adverse weather conditions, and the capacity of health-care facilities to meet veterans' needs. Similar concerns were raised at a field hearing the Committee held on July 1, 1991, in Charleston, West Virginia, on West Virginia veterans' access to VA health-care services.

According to VA's February 1986 report, "Study of Health Care Services to Veterans Living in Geographically Remote Areas," veterans living in rural areas are proportionately higher users of VA health-care services than veterans in urban areas. The study also found that there is a higher percentage of persons living below the poverty level in rural areas as compared to highly urbanized areas; that the further away veterans live from a VA facility, the less likely they are to seek VA care, particularly outpatient care; and that there are slightly more service-connected-disabled veterans per 1,000 population in the lesser populated areas.

One significant difference between urban and rural veterans is the greater obstacles they face in traveling to VA health-care facilities. For example, in North Dakota over 34,000 veterans—more than 50 percent of the State's total veteran population—live in counties 100 miles or more from the only VA health-care facility located in that State.

The situation is even more severe in eastern Montana, where 83 percent of veterans live more than 100 miles from the nearest VA facility. In contrast, the Chicago metropolitan area has four VA medical centers, several of which are located on major public transportation routes.

Difficulties in traveling to VA health-care services are not confined to veterans living 100 miles or more from the nearest VA health-care facility. Although most West Virginia veterans live within 100 miles of one of that State's four VA health-care facilities, rugged topography, poor roads, and sporadic public transportation combine to make it difficult for many veterans to reach those facilities. Veterans living in other mountainous States encounter similar difficulties.

For many years the Committee has urged VA to explore various alternatives for improving access to VA health-care services for veterans living in rural areas and has supported the development of various pilot programs to identify effective means for achieving that goal. In September 1986, the Senate Committee on Appropriations directed VA to establish a pilot program to test two different means for expanding VA health-care services in rural areas (S. Rept. No. 99-487, p. 87). In response to that directive, VA established two satellite, community-based clinics—one, in Redding, California, operated by VA personnel, and the other, in Farmington, New Mexico, operated by a non-profit organization under contract with VA. According to an evaluation completed by the Palo Alto, California, VA Medical Center's Far West Health Service Field Program in 1991, both clinics have expanded access to VA ambulatory health-care services for veterans living in geographically remote areas and provided such services at costs comparable to those incurred at other VA facilities.

The Committee also supported section 113 of Public Law 100-322, enacted on May 20, 1988, which required VA to implement a two-year pilot program of mobile health-care clinics, provided that funds were appropriated specifically for that purpose. Under that program, VA was to establish geographically-dispersed projects using appropriately equipped mobile vans to furnish health-care services to veterans in rural areas at least 100 miles from the nearest VA health-care facility. In addition, VA was required to submit to the House and Senate Veterans' Affairs Committees reports on VA's experience during the program and, at its conclusion, reports containing information and detailed breakdowns on services provided, costs, and client characteristics, as well as an evaluation of the program.

Unfortunately, no funds were appropriated for this program for fiscal year 1989. For fiscal year 1990, however, $3 million was appropriated in the Departments of Veterans Affairs and Housing and Urban Development and Independent Agencies Appropriations Act, 1990, (Public Law 101-144) for the rural mobile health clinics one of which was to be located in Arizona. Although there was no specific appropriation for mobile clinics in fiscal year 1991, VA moved forward with the program, awarding a contract for the manufacture of the mobile clinic vehicles and selecting five sites: Fayetteville/Durham, North Carolina; Poplar Bluff, Missouri; Prescott, Arizona; Spokane, Washington; and Togus, Maine. In fiscal year 1992, funds were appropriated for establishment of an additional mobile clinic to be located in Vermont. VA officials expect to begin operating three of the clinics by mid-September 1992 and the other three by early October 1992.

Committee bill

The rural health-care clinic provisions of the Committee bill are designed to further the Committee's goals with regard to the exploration of various alternatives for improving access to VA health-care services for veterans living in areas geographically remote from VA health-care facilities. Under the rural health-care program, VA would be required to establish and evaluate three means for furnishing health-care services to these veterans: (1) mobile health-care clinics equipped, operated, and maintained by VA personnel, (2) part-time stationary clinics operated by VA personnel, and (3) part-time stationary clinics operated through contracts with non-VA entities. Utilization and evaluation of three different means for furnishing ambulatory care services should enable VA to determine the geographic conditions and ranges of services for which mobile clinics or part-time stationary clinics are more effective.

In determining what health-care services will be provided through rural health-care clinics, the Committee expects VA to draw upon the experiences of VA health-care facilities and non-VA facilities which currently operate mobile clinics and part-time stationary clinics. For example, one model for furnishing health-care services through a mobile clinic of which the Committee is aware is the Checkup and Routine Examinations (CARE) Van operated by the Lebanon, Pennsylvania, VA Medical Center. The CARE Van augments the Lebanon VAMC's services by providing preventive screening examinations to veterans living in isolated farming and mountain communities in central Pennsylvania. The CARE Van's staff is composed of a physician's assistant, a licensed practical nurse, and a medical administration service clerk. This staff performs physical examinations, administers preventive screening tests, counsels veterans on reduction or cessation of smoking and other unhealthy behaviors, and refers veterans requiring follow-up treatment to the Lebanon VAMC or its satellite outpatient clinic in Harrisburg or, if the veteran chooses, to a private physician.

The Committee notes that mobile clinic programs need not be limited to preventive screening. For example, Valley Health Systems, Inc., of Huntington, West Virginia, under a grant awarded by the Children's Health Fund, operates a mobile clinic in isolated areas of four West Virginia counties that provides both preventive screening and routine primary outpatient care. The mobile clinic is currently operated two days per week and is staffed by a pediatrician, a pediatric or family practice resident, a pediatric nurse practitioner, a clerk, and a driver. According to a Valley Health Systems administrator, since January 1992, approximately 500 episodes of care involving comprehensive physical examinations, vaccinations, and other routine primary care services have been furnished to approximately 200 children, many of whom would not otherwise have had access to such care. Children requiring services not furnished through the mobile clinic are referred to primary-care facilities operated by Valley Health Systems or pediatric specialists affiliated with Marshall University.

The strength of the mobile clinic approach is its flexibility. Such clinics can treat small, scattered veteran populations in remote areas where the workload is insufficient to justify establishment of a permanent clinic. They can be shifted among various locations to accommodate fluctuating demand and to provide veterans with convenient access to care.

However, the Committee recognizes that mobile clinics may not constitute the most effective means for furnishing health-care services to veterans—at least not in all rural areas. Several VA medical centers which operated mobile clinics during the 1980s discontinued those programs due to difficulties regarding vehicle maintenance and recruitment and retention of staff. Thus, the Committee bill requires VA to establish both mobile and part-time stationary clinics and to evaluate both types of clinics.

Like mobile clinics, part-time stationary clinics can furnish various services depending on the needs of veterans living in particular remote areas. Several VA medical centers already operate programs comparable to the part-time stationary clinics envisioned by the Committee. The Salt Lake City, Utah, VA Medical Center operates a program through which physicians employed by the Salt Lake City VAMC fly to VA medical centers in Grand Junction, Colorado, and in Fort Harrison and Miles City, Montana, several days each month to furnish specialized diagnostic and treatment services that would otherwise be unavailable at those facilities. According to the Chief of Staff of the Salt Lake City VAMC, this program has proven to be very cost-effective because the cost of chartering an airplane to fly a group of specialist physicians to the three VA medical centers is considerably lower than the cost of transporting individual veterans from those locations to Salt Lake City. Transportation and referral to the Salt Lake City VAMC is generally limited to those veterans whom specialists determine require sophisticated surgical procedures and other services that the other VA medical centers lack the resources to provide.

Other VA medical centers have established part-time stationary clinics through which health-care services are furnished by non-VA health-care professionals. One of the most successful programs of this type is the Farmington, New Mexico, VA Community Clinic noted above. A joint venture between the Albuquerque VA Medical Center and Presbyterian Medical Service, the clinic furnishes a full range of ambulatory care services, including pharmacy, laboratory, and radiology services. Health services are provided by employees of Presbyterian Medical Services who refer veterans who require services not furnished by the clinic to the Albuquerque VAMC.

A less comprehensive, yet no less significant, part-time stationary clinic was recently established by the San Francisco VA Medical Center. Beginning in January 1992, the medical center entered into a contract with a private physician to furnish preventive screening examinations three days per week in his office in Eureka, California, a small city approximately 275 miles north of San Francisco on the California coast. Referrals for follow-up care are facilitated by a program analyst employed by the San Francisco VAMC who travels to Eureka to work with the physician on days on which screening examinations are conducted. San Francisco VAMC officials have located a physician in Ukiah, another isolated Northern California community, who is willing to enter into a similar arrangement to furnish preventive screening to veterans living in that area.

Unlike the mobile clinic pilot program established under Public Law 100-322, the rural health-care clinic program would not restrict access to veterans living at least 100

miles from the nearest VA health-care facility. Instead, the Committee bill would authorize the Secretary to establish rural health-care clinics in areas less than 100 miles from the nearest VA health-care facility if the Secretary determines those places to be appropriate for furnishing such services. In many States significant numbers of veterans living in areas that are less than 100 miles from the nearest VA facility lack ready access to VA facilities because of poor roads or inadequate public transportation services. In inclement weather, a fifty-mile trip along a winding mountain road may be more time-consuming than a 100-mile trip across flat terrain.

To ensure that care from rural health-care clinics is available to veterans on a geographically-distributed basis, the Committee bill would prohibit VA from establishing more than one clinic under this program in any one State. The Committee further recommends that VA establish at least two clinics in each of the four regions into which the Veterans Health Administration is organized. The Committee bill would require that at least three of the nine clinics established under the rural health-care clinic program be mobile clinics. With regard to the other six clinics, the Secretary would have the discretion to determine what combination of mobile and part-time stationary clinics would be most appropriate to carry out the program's goals.

The Committee bill also mandates that VA carry out an evaluation of the rural health-care clinic program. The Secretary would be required to submit to Congress a report on the program which would contain information regarding the types of health-care services furnished under the program, including a detailed specification of the cost of such services, the veterans furnished services under the program, and the types of personnel who furnished services to veterans under the program. With regard to the veterans furnished services under the program, the report would be required to contain an analysis of the extent to which these veterans otherwise would have received VA health-care services and the types of service they would have received.

In recognition of the fact that VA's health-care programs face tight budget constraints, the Committee bill prohibits VA from expending funds for the rural health-care clinic program unless expressly appropriated for that purpose.

Cost

According to CBO, the enactment of title IV would entail costs of $3 million in budget authority and outlays in fiscal year 1993 and total estimated costs of $18 million in budget authority and outlays in fiscal years 1993–1997.

• Mr. GRAHAM. Mr. President, in August of last year, Hurricane Andrew devastated the communities of south Florida, leaving hundreds of thousands without access to even the most basic health care services. One of the many teams of health care professionals, propelled into action by this emergency, was the Veterans Administration mobile health care clinic program.

Hurricane Andrew left the Miami VA Medical Center without electricity or water and rendered many of its staff homeless. Traveling from Arizona, Washington, and North Carolina, the VA mobile health units arrived at the Center and began aiding between 200 and 500 patients a day, including infants and children. During their 20-day stay, the mobile clinicians served nearly 5,700 patients in the hurricane area. Most were treated for injury and poisoning, tetanus vaccination, or respiratory and digestive system problems.

Today, I rise in support of the measure introduced by my good friend and colleague from the State of North Dakota, [Mr. CONRAD], which would expand the pilot program which created the mobile health units. I am an original cosponsor of this bill to establish nine additional mobile or part-time stationary health clinics to be operated by either VA or non-VA entities. These clinics would assist veterans living in areas geographically remote from existing health-care facilities, just as they helped the hurricane victims of south Dade County.

Because of the large number of veterans and relatively limited health care resources, many veterans must travel long distances to receive care. The current VA mobile health clinic program has proved to be an effective provider for many of the needs of rural veterans.

Last year, the Veterans' Affairs Committee, of which I am a proud member, and the full Senate overwhelmingly approved this proposal as part of a larger package. Unfortunately, the provision was dropped in conference committee. Once again this year, I would like to ask my colleagues to join me in supporting the passage of this initiative.•

By Mr. BINGAMAN:

S. 453. A bill to amend title XVIII of the Social Security Act to provide for coverage of payment for home health services where an individual is absent from the home at an adult day center; to the Committee on Finance.

AMENDING MEDICARE'S "HOMEBOUND" DEFINITION

Mr. BINGAMAN. Mr. President, I rise today to reintroduce a very simple yet important bill to address a problem in Medicare's evolving home health services program. In my view, coverage of home care could be one of Medicare's most beneficial provisions. In recent years, this coverage has given thousands of elderly patients—who otherwise would require hospital or nursing home care—the opportunity to live at home with the families they love.

But as beneficial as it is, home care does take a toll, both on the patients and the family caregivers. Everyone needs a respite, a break from the monotony and stress of everyday life. To provide much needed temporary relief to family caregivers and life-enriching, stimulating social and health-related interaction to patients, adult day centers have been growing in number in recent years throughout the country.

Unfortunately, Medicare does not cover adult day care. In fact, Medicare's home health coverage can be, and often is, denied if a home health care patient attends an adult day center for any reason other than to receive medical care.

Given the economic and technological realities of today's health care delivery system, I believe it is time for Congress to amend the law to allow for continued Medicare coverage of home health care for homebound patients who attend adult day centers.

The bill I am introducing today would achieve this result. It simply states that when an individual has been determined eligible for the Medicare home health services benefit, that eligibility cannot be denied simply because the patient attends an adult day center if the individual attends the center through the help of others or through specialized transportation.

Mr. President, let me explain the situation and my bill in a little more detail. As I have stated, under current law, Medicare beneficiaries may be disqualified from receiving home health services benefits if they are absent from their home, except in very limited circumstances. Only medical absences and a limited number of non-medical absences are permitted under Medicare's requirement that home health beneficiaries be confined to home.

When the original home health benefit was implemented in 1965, few, if any, adult day centers existed. Over the past few decades, however, the need for such centers has become increasingly more apparent. Today, a large network of adult day centers operate around the country, allowing the homebound elderly and disabled to leave their homes for social interaction and to receive health services. These centers provide the homebound with stimulating alternative care settings, which help prevent the home from becoming an institutional-type setting, and provide the family caregivers much needed respites from the stresses of day-to-day care.

Unfortunately, for many Medicare beneficiaries and their families, attending an adult day center has become a serious obstacle to receiving continued coverage of necessary home health care services. In fact, many beneficiaries have said that they avoided attending adult day centers simply because they fear losing Medicare home health coverage of necessary care. And if the experience of other beneficiaries is any indication, their fears are probably justified.

Take, for example, the ordeal of a 94-year-old woman in New Hampshire who is confined to a wheelchair and unable to leave her home unassisted. According to the Center for Health Care Law, her intermediary, Blue Cross-Blue Shield of New Hampshire, determined that she was not homebound and withheld her Medicare home care coverage on the grounds that she was trans-

ported twice a week to a local day center for the frail elderly. In another case, an 80-year-old woman in Maine, who is suffering from insulin-dependent diabetes, cardiac disease, degenerative joint disease, cataracts, and minimal vision, was twice denied Medicare coverage—even after her appeal was upheld by an administrative law judge. The basis for her denial was that she violated her homebound status when she attended a senior meals program site, which was a quarter of a mile from her home, twice a week. Mr. President, to leave her home, this woman had to use one or two canes, and she required the supervision of another person and specialized transportation. Given these details, I find it incomprehensible that an intermediary would deny Medicare coverage on the grounds that she violated her homebound status. However, like her, hundreds of elderly individuals are being victimized by this illogical and inhumane practice.

To help improve these beneficiaries' quality of life, I believe the Congress should act quickly to amend the Medicare law to specifically allow home health care patients to attend adult day centers. To avoid abuse of the law, this expanded benefit would be available only if attendance is possible through the assistance of other individuals or specialized transportation. This change would identify as the relevant issue the manner by which the patient is capable of attending an adult day center, rather than the purpose of the center. An individual who can attend an adult day center under his own power should not be considered homebound; however, one who can attend only through the use of assistance, and who would otherwise be confined to the home without that assistance, should remain homebound.

Today, adult day centers can serve as surrogate homes for the home health care patients. Patients should be able to receive Medicare-covered home health services while at the centers, if the services are of the type that would have been covered if the individual were in his or her home.

I urge my colleagues to look carefully at this bill, which I ask to be printed in full following my statement, and to talk with their constituents about the need for the type of change I am recommending today.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 453

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. COVERAGE OF HOME HEALTH SERVICES WHERE AN INDIVIDUAL IS ABSENT FROM THE HOME AT AN ADULT DAY CENTER.

(a) IN GENERAL.—Sections 1814(a) and 1835(a) of the Social Security Act (42 U.S.C. 1395f(a) and 42 U.S.C. 1395n(a)) are amended by adding at the end the following:

"For purposes of this section, an individual may be considered to be confined to his home, for purposes of payment for home health services covered under this title, notwithstanding the individual's absence from the home, through the assistance of other individuals or specialized transportation, to attend an adult day center, regardless of the nature or frequency of the attendance. An adult day center may be considered an individual's home for purposes of determining whether the individual is entitled to payment for home health services under sections 1812(a)(3) and 1832(a)(2).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective with respect to payment for home health services furnished on or after January 1, 1994.

By Mr. BRYAN (for himself and Mr. REID):

S. 454. A bill to extend the suspension of duty on three-dimensional cameras; to the Committee on Finance.

SUSPENSION OF DUTY ON 3–D CAMERAS

• Mr. BRYAN. Mr. President, today I am reintroducing legislation with the senior Senator from Nevada to extend the temporary duty suspension for 3–D cameras.

The 3–D camera duty suspension was enacted in 1990 through legislation we sponsored; however, it expired at the end of 1992 along with almost all of the other 1990 suspensions. Since many companies around the country have relied on the expired duty suspensions, Congress should act on this matter as soon as possible.

The Nishika Corp., which is located in Henderson, NV, is the sole owner of the worldwide patent rights for 3–D cameras. Since the initial duty suspension legislation, the company's work force has more than quadrupled and the company has invested over $4 million into its facilities, becoming a significant employer in the Henderson community.

The camera is unique but uses standard 35mm film, from which it produces a three-dimensional photograph that can be viewed without special glasses. The permanent tariff schedules do not adequately reflect the unique nature of this camera. New classifications need to be created for new products such as the 3–D camera.

Mr. President, in reviewing our bill to extend the 3–D camera duty suspension last year, the International Trade Commission found that the reasons for enacting this suspension in 1990 remain true. However, unless this suspension is renewed, many of the Henderson company's employees may lose their jobs. I urge my distinguished colleagues to support our bill to extend the 3–D camera duty suspension from December 31, 1992, to December 31, 1996.

Mr. President, I ask unanimous consent that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 454

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF SUSPENSION OF DUTY ON THREE-DIMENSIONAL CAMERAS.

Heading 9902.90.06 of the Harmonized Tariff Schedule of the United States is amended by striking out "12/31/92" and inserting in lieu thereof "12/31/96".

SEC. 2. EFFECTIVE DATE.

The amendment made by section 1 applies with respect to articles entered, or withdrawn from warehouse for consumption, after December 31, 1992.

SEC. 3. CERTAIN ENTRIES.

(a) IN GENERAL.—Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, the Secretary of the Treasury, upon proper request filed with the appropriate customs officer within 180 days after the date of the enactment of this Act, shall—

(1) reliquidate each entry which occurred after December 31, 1992 and before the effective date of this Act at the rate of duty that would have been assessed if that entry had been made on December 31, 1992; and

(2) make the appropriate refund of duty.

Such reliquidation and refunds shall be made within 180 days after the date on which the request is made.•

By Mr. HATFIELD (for himself, Mr. BURNS, Mr. BAUCUS, Mr. CRAIG, and Mr. MURKOWSKI):

S. 455. A bill to amend title 31, United States Code, to increase Federal payments to units of general local government for entitlement lands, and for other purposes; to the Committee on Energy and Natural Resources.

PAYMENT IN LIEU OF TAXES ACT

Mr. HATFIELD. Mr. President, today I send to the desk for introduction purposes on behalf of Senator GORTON of Washington, Senator BAUCUS of Montana, Senator GREGG of Idaho, and Senator MURKOWSKI of Alaska and myself, a bill relating to the Payment-in-Lieu of Taxes Act.

Mr. President, last October I came to the Senate floor with my distinguished colleague, the Senator from West Virginia, the President pro tempore of the Senate, the chairman of the Appropriations Committee, Senator BYRD, to discuss the problems associated with legislation to adjust the Payment-in-Lieu of Taxes Program.

Like so many things in Washington, we create acronyms in order to save time. So from now on in my remarks I will refer to this Payment-in-Lieu of Taxes Program as PILT.

I want to say simply put, the interior appropriations account was not able to support the $115 million, one-time increase in the PILT Program proposed by last year's legislation. But like other legislation which sometimes has to move through more than one session for accomplishment, Senator BYRD and I pledged to work together in the 103d Congress, this Congress, to find a way to increase the PILT Program in a manner that is equitable both to the Nation's public lands counties receiving money under PILT, and the other

programs receiving money though the Interior Appropriations Subcommittee.

Today, I am introducing the Payment-in-Lieu of Taxes Act which I expect will serve as a starting point for building a consensus on an increase for the PILT Program.

PILT is administrated by the Bureau of Land Management, the BLM, the single, largest Federal resource managing agency with responsibility for over 270 million acres of public lands. Created by Congress in 1976, PILT established a formula based on acreage and population whereby county governments are compensated for the presence of certain tax-exempt Federal lands within their boundaries.

Mr. President, in my State, and I am sure that mine is not alone, up to 78 percent of the land in any one county is owned by the Federal Government, which means you are talking about a 22-percent land base of a total county, as far as tax support is concerned, for all of the county services, and those include services to the public lands owned by the Federal Government. We are required, in many instances to maintain roadways, other facilities, servicing, benefiting the Federal ownership.

Mr. President, we are talking about land stewardship today, not only in the sense of environmental concern, but in conservation and wise land management programs.

Stewardship. Any landowner has, in my view, a certain stewardship role and responsibility. We may hold the bill of sale, we may hold the title, the deed to that land, but that does not give any of us the right to destroy that land, or to own that land in a way in which it is going to be used up as far as future generations. That is stewardship. As the largest landowner in my State, the Federal Government has a stewardship responsibility, as it has in every ownership responsibility of land in every other State.

So when we talk about this, this is not a bailout for the local governments. This is not a bag man coming to the Federal Treasury asking for moneys to be appropriated for local governments, because this is a part of the responsibility of the Federal Government as a landowner. And very frankly, if the Federal Government does not want to bear that responsibility of landowner, then it ought to dispose of the land and let those that are willing to take that land into other kinds of title, private or local public land, take that responsibility. I do not think this in any way is begging the Federal Treasury. This is putting the Federal Government on notice that we expect them to live up to their obligations, as any landowner and steward of the land has.

For the last 14 years, the PILT Program has received the maximum amount allowed under the 1976 land—approximately $105 million, for all of this Nation's land owned under the Federal title.

When measured in constant dollars, this amount of money is now worth less than half of what it was when the program was initiated in 1976, as has been stated by Senator BAUCUS.

Not only has the overall dollar value of the program diminished over the years, other Federal land-associated revenues received by the county governments have declined. For example, over the past 60 years, rural counties have grown dependent on collecting a share of the government receipts obtained from resource extraction activities on Federal lands within their boundaries.

Mr. President, let us go back to the initial act that set up the Federal Forest Service. In that act, it said in effect that those forest lands should be administered as one of its responsibilities for the economic benefit of those adjacent communities. We built into the law this kind of a relationship. Over the years, that has been declining rapidly in my State as relates to forestry and other States as relates to mining, as relates to grazing, and all other uses of the Federal lands. We have 500 million acres of Federal lands around this country. The other day, the Secretary of the Interior said we have a new policy. He announced that from now on, the Department of Interior shall be known as the Department of the Environment. I do not know what kinds of a signal—well, I think I know what that signal means. That means we are going to see lesser utilization of the Federal lands as relates to those resources on those Federal lands.

We have gone through this particular experience in my State by seeing the drastic reduction, oftentimes not by the Congress, not by the administration and the executive branch, but by the courts intervening. And if there is any group in this country that has the least competence to run a natural resource, or manage a natural resource, it is the courts of this country. They are looking at everything through legal eyes, not environmental, or policy, or the kinds of programs that we must have for adequate and intelligent administration of our natural resources. We have to get this back into the legislative branch and the executive branch where we can consider all those uses, not just a legal definition or a narrow definition of a point.

So we are indeed in a transition period. I am not suggesting we are going to turn the clock back, or that we want to or can turn the clock back. But in the same article, in the New York Times, attributed to our new Secretary of Interior, I read that for all these years the Federal public lands in the West have been geared to the economic development of the West; and that is, obviously, another point of change that is taking place and will probably accelerate in the next 4 years, if I understand these messages and signals coming from this new administration.

I am not saying that is bad or good. I am saying that that affects and impacts upon the payment in lieu of tax programs as relates to the Federal ownership and stewardship in my State and other States of this country. I think, therefore, that we have to recognize a time to update this act. The receipts that have been used by these various extraction programs of Federal ownership of resources are used to maintain the necessary county services, such as roads, search and rescue, police protection, fire protection, health, safety, and all of the other factors.

Today, these resource development activities are diminishing, primarily because of the general public's demand for the enhancement of alternative forest values, such as fish and wildlife protection and recreation. This increasing trend of diminishing monetary returns on Federal land activities elevates—I underscore importance—the importance of the money received by counties under PILT.

The need for an increase in the PILT Program is clear. I think we have to recognize that the Federal ownership of property within an individual State was never intended to be a burden on that State. Go back and reread the administration acts of each and every one of those western States, beginning with California as the first and Oregon as the second, and all of the others that follow. Very clearly, in the acts of admission, and in the debates surrounding admission of statehood of those lands, it was the clear intent that that retention of Federal ownership should not be a burden to the State and the people being admitted into the Union. Most of them were rural at that time, which are adjacent to these Federal lands. I think the path toward achieving an increase in these payments is, however, somewhat obscure.

The PILT increase legislation introduced last year in the 102d Congress, as I mentioned, would have raised by 120 percent the maximum available amount counties would receive under PILT—from $105 to $220 million. This large increase would have brought the present value of the PILT Program equal to the program's value at the time of its passage in 1976. To achieve the increase, however, the legislation authorized the massive $115 million increase all in 1 year. One-time adjustments of this magnitude are simply too much for the already strained Interior appropriations subcommittee account to handle.

I understood Senator BYRD's resistance to that type of budgetary impact. But now, today, the legislation that we are introducing increases the amount of money counties would receive under PILT to be reflective of the original

value of the program. However, I propose to phase in this increase over a 5-year period. Additionally, our bill adjusts the PILT Program for inflation, based on the CPI each year after enactment. In this way, the burden placed on the Interior appropriations committee will be spread over the time of 5 years rather than occurring all in 1 single fiscal year. Ultimately, this legislation will require a fiscal offset. I intend to work with members of the affected community to find an acceptable source of funding.

And these committees will, I am sure, be responsive to our efforts to work with them. I believe this legislation adequately balances the fiscal needs of our counties with the need to continue meeting deficit reduction requirements.

I applaud President Clinton. I feel that he has put himself right in the center of the very important issue that he has presented to the American public about deficit reduction and, of course, including with that deficit reduction spending reductions and tax enhancement.

I urge consideration of this bill today by the body and its passage at the earliest possible moment.

I ask that the text of the legislation be inserted in the RECORD following my remarks.

Mr. President, I also ask unanimous consent that letters of endorsement from the National Association of Counties and the Association of Oregon Counties be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 455

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Payments In Lieu of Taxes Act".

SEC. 2. INCREASE IN PAYMENTS FOR ENTITLEMENT LANDS.

(a) INCREASE BASED ON CONSUMER PRICE INDEX.—Section 6903(b)(1) of title 31, United States Code, is amended—

(1) in subparagraph (A), by striking "75 cents for each acre of entitlement land" and inserting "93 cents during fiscal year 1994, $1.11 during fiscal year 1995, $1.29 during fiscal year 1996, $1.47 during fiscal year 1997, and $1.65 during fiscal year 1998 and thereafter, for each acre of entitlement land"; and

(2) in subparagraph (B), by striking "10 cents for each acre of entitlement land" and inserting "12 cents during fiscal year 1994, 15 cents during fiscal year 1995, 17 cents during fiscal year 1996, 20 cents during fiscal year 1997, and 22 cents during fiscal year 1998 and thereafter, for each acre of entitlement land".

(b) INCREASE IN POPULATION CAP.—Section 6903(c) of title 31, United States Code, is amended—

(1) in paragraph (1), by striking "$50 times the population" and inserting "the highest dollar amount specified in paragraph (2)"; and

(2) in paragraph (2), by amending the table at the end to read as follows:

"If population equals—	the limitation is equal to the population times—
5,000	$110.00
6,000	103.00
7,000	97.00
8,000	90.00
9,000	84.00
10,000	77.00
11,000	75.00
12,000	73.00
13,000	70.00
14,000	68.00
15,000	66.00
16,000	65.00
17,000	64.00
18,000	63.00
19,000	62.00
20,000	61.00
21,000	60.00
22,000	59.00
23,000	59.00
24,000	58.00
25,000	57.00
26,000	56.00
27,000	56.00
28,000	56.00
29,000	55.00
30,000	55.00
31,000	54.00
32,000	54.00
33,000	53.00
34,000	53.00
35,000	52.00
36,000	52.00
37,000	51.00
38,000	51.00
39,000	50.00
40,000	50.00
41,000	49.00
42,000	48.00
43,000	48.00
44,000	47.00
45,000	47.00
46,000	46.00
47,000	46.00
48,000	45.00
49,000	45.00
50,000	44.00.".

SEC. 3. INDEXING OF PILT PAYMENTS FOR INFLATION; INSTALLMENT PAYMENTS.

Section 6903 of title 31, United States Code, is amended by adding at the end the following new subsection:

"(d) On October 1 of each year after the date of enactment of the Payment in Lieu of Taxes Act, the Secretary of the Interior shall adjust each dollar amount specified in subsections (b) and (c) to reflect changes in the Consumer Price Index published by the Bureau of Labor Statistics of the Department of Labor, for the 12 months ending the preceding June 30.".

SEC. 4. LAND EXCHANGES.

The second sentence of section 6902(b) of title 31, United States Code, is amended by inserting before the period the following: "and does not apply to payments for lands conveyed to the United States in exchange for Federal lands".

SEC. 5. EFFECTIVE DATE; TRANSITION PROVISIONS.

(a) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), this Act and the amendments made by this Act shall become effective on October 1, 1993.

(2) LIMITATION.—The amendment made by section 2(b)(2) shall become effective on October 1, 1998.

(b) TRANSITION PROVISIONS.—

(1) FISCAL YEAR 1994.—During fiscal year 1994, the table at the end of section 6903(c)(2) of title 31, United States Code, is amended to read as follows:

"If population equals—	the limitation is equal to the population times—
5,000	$62.00
6,000	58.00
7,000	54.50
8,000	51.00
9,000	47.00
10,000	43.50
11,000	42.00
12,000	41.00
13,000	40.00
14,000	38.50
15,000	37.00
16,000	36.50
17,000	36.00
18,000	35.50
19,000	34.50
20,000	34.00
21,000	33.75
22,000	33.50
23,000	33.00
24,000	32.50
25,000	32.25
26,000	32.00
27,000	31.75
28,000	31.50
29,000	31.25
30,000	31.00
31,000	30.75
32,000	30.50
33,000	30.00
34,000	29.75
35,000	29.50
36,000	29.25
37,000	28.75
38,000	28.50
39,000	28.25
40,000	28.00
41,000	27.50
42,000	27.25
43,000	27.00
44,000	26.50
45,000	26.25
46,000	26.00
47,000	25.75
48,000	25.50
49,000	25.00
50,000	24.75.".

(2) FISCAL YEAR 1995.—During fiscal year 1995, the table at the end of section 6903(c)(2) of title 31, United States Code, is amended to read as follows:

"If population equals—	the limitation is equal to the population times—
5,000	$74.00
6,000	69.50
7,000	65.00
8,000	61.00
9,000	56.00
10,000	52.00
11,000	50.50
12,000	49.00
13,000	47.50
14,000	46.00
15,000	44.50
16,000	43.50
17,000	43.00
18,000	42.00
19,000	41.50
20,000	41.00
21,000	40.25
22,000	40.00
23,000	39.50
24,000	39.00
25,000	38.50
26,000	38.25
27,000	38.00
28,000	37.50

29,000	37.25
30,000	37.00
31,000	36.75
32,000	36.25
33,000	36.00
34,000	35.50
35,000	35.00
36,000	34.75
37,000	34.50
38,000	34.00
39,000	33.75
40,000	33.25
41,000	33.00
42,000	32.50
43,000	32.25
44,000	32.00
45,000	31.50
46,000	31.00
47,000	30.75
48,000	30.50
49,000	30.00
50,000	29.50.".

(3) FISCAL YEAR 1996.—During fiscal year 1996, the table at the end of section 6903(c)(2) of title 31, United States Code, is amended to read as follows:

"If population equals—	the limitation is equal to the population times—
5,000	$86.00
6,000	81.00
7,000	76.00
8,000	71.00
9,000	65.50
10,000	60.00
11,000	58.50
12,000	57.00
13,000	55.00
14,000	53.50
15,000	51.50
16,000	51.00
17,000	50.00
18,000	49.00
19,000	48.00
20,000	47.50
21,000	47.25
22,000	46.25
23,000	46.00
24,000	45.25
25,000	45.00
26,000	44.50
27,000	44.00
28,000	43.75
29,000	43.50
30,000	43.00
31,000	42.50
32,000	42.00
33,000	41.75
34,000	41.25
35,000	41.00
36,000	40.50
37,000	40.00
38,000	39.50
39,000	39.00
40,000	38.75
41,000	38.25
42,000	38.00
43,000	37.50
44,000	37.00
45,000	36.50
46,000	36.00
47,000	35.75
48,000	35.25
49,000	35.00
50,000	34.50.".

(4) FISCAL YEAR 1997.—During fiscal year 1997, the table at the end of section 6903(c)(2) of title 31, United States Code, is amended to read as follows:

"If population equals—	the limitation is equal to the population times—
5,000	$98.00
6,000	92.00
7,000	86.00
8,000	80.50
9,000	74.50
10,000	68.50
11,000	66.50
12,000	64.50
13,000	63.00
14,000	61.00
15,000	59.00
16,000	58.00
17,000	57.00
18,000	56.00
19,000	55.00
20,000	54.00
21,000	53.50
22,000	52.75
23,000	52.00
24,000	51.50
25,000	51.00
26,000	50.50
27,000	50.25
28,000	50.00
29,000	49.50
30,000	49.00
31,000	48.50
32,000	48.00
33,000	47.50
34,000	47.00
35,000	46.50
36,000	46.00
37,000	45.50
38,000	45.00
39,000	44.50
40,000	44.00
41,000	43.50
42,000	43.00
43,000	42.75
44,000	42.25
45,000	41.75
46,000	41.25
47,000	40.75
48,000	40.25
49,000	39.75
50,000	39.25.".

NATIONAL ASSOCIATION OF COUNTIES,
Washington, DC, February 23, 1993.

Hon. MARK O. HATFIELD,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR HATFIELD: The National Association of Counties wishes to express its full support for your legislation which would restore the full value to the Payments-in-lieu-of-taxes (PILT) program. At our recent Board of Directors meeting, NACo affirmed that the passage of an increased PILT authorization is one of our top seven national priority issues.

As you are well aware, PILT was authorized in 1976 and is subject to the yearly appropriations process. The authorization, however, has not been increased since the original program was introduced. The value of the program has been severely eroded by simple inflation to the point where in today's dollars, it is worth less than half of when enacted 17 years ago.

For 17 years Congress has recognized its responsibility to provide payments to over 1700 counties in 49 states to compensate them for the taxes lost through federal ownership of open space lands. Full funding under the current authorization has been about $104 to $105 million nationwide. If inflation has been factored into the program, full funding today would be $245 million as estimated by the Bureau of Land Management. That would be just to keep up with the original value of the PILT program.

For counties with large amounts of tax exempt public lands, the funding of PILT is critical. It is a major portion of their budgets and goes to help fund the direct and indirect services counties provide to public lands. PILT funds are spent for emergency search and rescue, law enforcement, fire and emergency medical services, solid waste disposal, road maintenance, and health and human services. All of these services are necessary to support the vast system of national parks, national forests, fish and wildlife refuges, and reclamation areas whose visitation has increased dramatically in the last 17 years.

Counties continue to rely on the property tax to fund the operation of local government. Statewide tax limitation measures have constrained the growth of local property taxes. But even under the strictest limitations, there is room for some increase for inflation. That has not been the case with PILT. While the consumer price index has skyrocketed over 120 percent since 1976, PILT payments have remained flat. Counties are faced with increasing costs for services to public lands and are being squeezed by the shrinking value of the existing program.

Shifting priorities in federal land management decisions have also piled an additional burden on local governments. Economic uses of public lands have been curtailed by Congress, further adding to the financial burden of local communities. Restrictions on mining, logging, and grazing have a direct impact on local economies and threaten the stability of communities that must service public lands areas. As natural resource payments to counties decline, the importance of PILT has increased dramatically.

The legislation you have introduced does not seek to make PILT an entitlement program. Counties have, year after year, gone to the appropriations committees in Congress to make their case for full funding of the program. We are willing to continue to do that in the future. We are, as elected officials, perfectly aware of the constraints of budget deficits. That is why we support your approach of phasing in over a five year period an increase in the authorization for PILT. As the Congress begins to shift savings from defense programs to domestic programs, we think PILT should have a high priority for increased funding.

Your leadership on this issue is important to counties across the nation. You have the unique perspective of representing a state with vast amounts of federally owned lands whose traditional uses are being altered by protection plans for the northern spotted owl. You are aware of how an increase in the PILT authorization could help distressed natural resource dependent communities whose economies are in transition. We appreciate your willingness to tackle this issue which is so important to counties nationwide.

We look forward to working with you on the passage of a new PILT authorization. Thanks for your strong support and leadership.

Sincerely,

JOHN STROGER,
President.

ASSOCIATION OF OREGON COUNTIES,
Salem, OR, February 8, 1993.

Hon. MARK O. HATFIELD,
Hart Office Building,
Washington, DC.

DEAR SENATOR HATFIELD: The Association of Oregon Counties most enthusiastically supports your legislative concept regarding adjustment to the federal payments-in-lieu-of-taxes program.

In coordination with the National Association of Counties, we have been seeking adjustments in payments under the program that would simply recapture value lost to inflation since its adoption in 1976.

Given federal budget realities, a three-year phase-in is certainly reasonable. In addition, the feature of an annual cost-of-living index is key to keeping the program current.

Your concept effectively helps address the need for domestic economic revitalization, particularly in our hard pressed rural counties with predominant federal land ownership, such as Lake (78 percent federal ownership), Harney (76 percent), and Malheur (75 percent).

Your concept also addresses equity in this federal-county partnership. Tax immunity of these national purpose lands places an unfair burden on taxpayers of the county, who provide vital services—such as road maintenance, law enforcement, solid waste, and search and rescue operations—to visitors and agency employees. Both the costs of county services and number of visitors to public lands is increasing significantly every year.

Two quick examples of the need for your concept:

Grant County is 60 percent federally owned. In 1976, PILT was 22 percent of the county general fund budget. By 1991, PILT payments had fallen to only 9 percent of the budget. After full phase-in of your concept, payments to Grant County should return to 21 percent of its budget.

Harney County, with a population of 7,100, is 76 percent federally owned and must maintain over 2,000 miles of county roads. PILT pays $308,000, or only 6.4 cents per acre. This payment is less than half of what the county would be authorized under your concept.

We deeply appreciate your leadership and stand ready to help. We will stay in close consultation with your staff.

We also look forward to our visit with you March 2nd, and are pleased that you will be addressing the NACo Legislative Conference.

Best Regards,

MICHAEL J. SYKES,
President.

ESTIMATED PILT PAYMENTS UNDER 5-YEAR PHASE-IN

State	Fiscal year—					
	1992 (actual)	1994	1995	1996	1997	1998
Alabama	$133,419	$152,155	$173,522	$197,890	$225,679	$257,371
Alaska	4,507,941	5,477,313	6,655,136	8,086,233	9,825,069	11,937,818
Arizona	8,400,142	9,968,202	11,829,972	14,037,093	16,657,405	19,766,853
Arkansas	934,515	1,252,689	1,679,193	2,250,908	3,017,275	4,044,567
California	10,194,587	11,908,729	13,911,091	16,250,135	18,982,472	22,174,230
Colorado	6,426,496	8,011,361	9,987,077	12,450,033	15,520,388	19,347,937
Delaware	9,576	9,756	9,939	10,125	10,315	10,509
Florida	1,039,091	1,285,551	1,590,470	1,967,711	2,434,429	3,011,848
Georgia	790,686	920,305	1,071,173	1,246,773	1,451,159	1,689,051
Hawaii	36,363	32,702	29,409	26,448	23,785	21,390
Idaho	7,245,410	8,651,965	10,331,574	12,337,247	14,732,283	17,592,267
Illinois	305,050	359,663	424,053	499,971	589,481	695,015
Indiana	211,909	243,594	280,016	321,884	370,013	425,337
Iowa	127,815	127,815	127,815	127,815	127,815	127,815
Kansas	337,818	395,741	463,597	543,086	636,206	745,292
Kentucky	594,384	722,857	879,098	1,069,011	1,300,193	1,581,222
Louisiana	159,163	178,377	199,912	224,045	251,093	281,405
Maine	94,239	104,780	116,500	129,531	144,020	160,129
Maryland	43,040	46,968	51,255	55,933	61,037	66,608
Massachusetts	53,609	55,572	57,606	59,715	61,901	64,167
Michigan	1,139,050	1,402,283	1,726,348	2,125,305	2,616,460	3,221,120
Minnesota	685,811	914,103	1,218,388	1,623,962	2,164,544	2,885,074
Mississippi	345,558	430,729	536,891	669,221	834,165	1,039,764
Missouri	861,076	1,092,328	1,385,684	1,757,825	2,229,908	2,828,775
Montana	7,701,030	9,347,931	11,347,030	13,773,646	16,719,204	20,294,684
Nebraska	333,815	395,731	469,131	556,146	659,300	781,587
Nevada	6,730,261	7,733,036	8,885,220	10,209,074	11,730,175	13,477,912
New Hampshire	89,862	140,858	220,794	346,092	542,497	850,360
New Jersey	42,619	45,912	49,459	53,280	57,396	61,830
New Mexico	10,492,453	12,430,061	14,725,482	17,444,791	20,666,265	24,482,640
New York	40,805	44,141	47,751	51,655	55,878	60,447
North Carolina	1,268,014	1,482,406	1,733,048	2,026,064	2,368,625	2,769,104
North Dakota	556,279	655,667	772,812	910,887	1,073,630	1,265,451
Ohio	207,377	237,565	272,148	311,765	357,150	409,141
Oklahoma	781,425	921,010	1,085,528	1,279,434	1,507,977	1,777,344
Oregon	2,871,042	3,400,764	4,028,223	4,771,451	5,651,809	6,694,597
Pennsylvania	211,483	256,244	310,478	376,192	455,814	552,288
Rhode Island	0	0	0	0	0	8
South Carolina	169,246	181,721	195,115	209,496	224,937	241,517
South Dakota	1,300,049	1,638,957	2,066,215	2,604,855	3,283,912	4,139,991
Tennessee	464,399	590,219	750,126	953,358	1,211,651	1,539,924
Texas	1,313,903	1,554,011	1,837,998	2,173,881	2,571,145	3,041,007
Utah	8,860,477	10,488,467	12,415,577	14,696,767	17,397,094	20,593,568
Vermont	236,604	274,734	319,009	370,419	430,115	499,430
Virginia	1,184,836	1,438,288	1,745,958	2,119,442	2,572,819	3,123,180
Washington	1,409,119	1,826,238	2,366,831	3,067,447	3,975,455	5,152,246
West Virginia	777,068	931,681	1,117,058	1,339,320	1,605,805	1,925,312
Wisconsin [1]						
Wyoming	7,194,674	8,575,962	10,222,441	12,185,023	14,524,396	17,312,900
Total	98,913,588	109,761,233	131,495,760	157,713,512	189,385,799	227,709,185

[1] Counties in Wisconsin do not receive payments.

Note—data does not include U.S. Territories.

Source: Bureau of Land Management.

Compiled by the National Association of Counties.

Mr. BAUCUS. Mr. President, I would like to say a few words about the Payment in Lieu of Taxes Act which Senator HATFIELD introduced today. I commend my colleague from Oregon for very hard work in crafting this legislation. He has provided yeoman service and all of us in the West, public land States, are very deeply indebted for his hard work.

It is fiscally responsible, yet responsive to the needs of rural communities across the Nation. In short, this bill proves to rural communities across the country that Uncle Sam can be a good neighbor.

The purpose of this legislation is to increase authorization for the Department of the Interior's Payments in Lieu of Taxes [PILT] Program and to index the PILT Program to the rate of inflation as measured by the Consumer Price Index.

Many counties in the West have a large portion of their land base in Federal ownership. In the past, these communities have counted on Federal lands to provide jobs and an adequate tax base. Mineral development, oil and gas drilling, and logging are activities that have historically occurred on public lands and that provided good paying jobs and a steady flow of tax revenue to rural counties.

But times are changing. The result of past overuse, tough global competition in natural resource markets, and the growing emphasis on sustainable development, recreation and conservation on our public lands has, in many instances, diminished the once important role extractive industries played in rural America.

This bill amends the Payments in Lieu of Taxes Act of 1976, which was designed to compensate local governments for the presence of tax-exempt Federal lands within their boundaries. As a Member of the House, I worked hard to pass this legislation. Since that time, PILT has been authorized at the same level of funding. PILT payments today are worth about one-half of what they were back in 1976.

This bill would bring about a long overdue increase in the level of appropriation to the PILT Program under a 5-year phase in. Put simply, the PILT Program would be brought in line with the 1990's, and would guard against the value of payments diminishing in the future. Also, by phasing this increase in over a 5-year period, this bill is specifically tailored to minimize the budgetary impact of a payment increase.

More than 1,700 counties in 49 States benefit from this program. In Montana, all 56 counties depend on the PILT Program to some degree. Mostly rural, these counties house our enormous complex of national forests, national parks, wildlife refuges, and lands administered by the Bureau of Land Management.

PILT payments enable rural counties, whose tax base is constrained by the presence of nontaxable Federal lands, to meet the education and transportation needs of their citizens, and meet the demand placed on local services by people recreating on the public lands.

Finally, the act as it currently exists penalizes States by making lands which it exchanges to the Federal Government ineligible for the PILT Payment Program. As a result of this provision, the entitlement land base under PILT has eroded for counties that must still provide the same services even though lands within its boundaries become Federal property.

This bill amends that provision and allows lands that are conveyed to the United States in exchange for other lands to be eligible for PILT payments.

The counties relying on PILT payments recognize the need to control the Federal deficit. At the same time, the need to keep apace with the growing costs of providing basic services is something that we cannot afford to overlook or ignore. This bill simply asks that we recognize the importance of the PILT Program and tailor it to more adequately reflect the present.

Mr. HATFIELD. Mr. President, I thank the Senator from Montana for his very succinct, accurate, and excellent statement on a subject that is so important as he indicates to not just a few States in the Far West, but certainly to at least 49 of the 50 States.

Mr. BURNS. Mr. President, I thank the Senator from Oregon, [Mr. HATFIELD] for his work on this piece of legislation.

Last year I think Senator WIRTH and I worked very hard on increasing of the PILT payment to the counties, and when we sat down and visited with the ranking member of the Appropriations Committee and the chairman, we knew that it was almost impossible to do as it was written last year.

I congratulate Senator HATFIELD on the work he has done with the chairman of the committee and to find a way that we can increase this payment in lieu of taxes with this piece of legislation.

One would have to be somewhat involved in county government before you can really get a handle on what this means and the impact on counties. Now in my case, of all the western States, of course with the State of Oregon, Montana actually has one of the lowest percentages of public lands, a little over 35 percent, but that 35 percent equals 28.5 million acres. Montana is a fairly sizable State, and if you want to know how big it is from Eureka up in the Northwest corner down to Alzada in the southeast corner it is farther than it is from Chicago to Washington, DC.

When you look at those 28.5 million acres, many of those acres are owned by the Federal Government. In other words, the Federal Government owns roughly as much in Montana as the total combined area of seven States of Connecticut, Delaware, Maryland, Massachusetts, New Jersey, Rhode Island, and Vermont.

Each of these States have about 6 percent represented in Federal land in their States. So consequently at least 94 percent or more of each of these States is open for economic development and is a part of the local tax base.

I had the privilege of serving on the Board of County Commissioners in Yellowstone County, MT. All 56 counties did qualify for a certain amount of PILT. What we did with that money is we tag that money for one purpose and that was public safety. That is what we replaced our communications with in our sheriff's department. That is what we replaced vehicles with in the sheriff's department, new equipment and this type. Everything for public safety in the sheriff's department came out of that account.

So having the Federal Government as a single major landowner in our State puts us under severe restrictions on economic development in that State. It also places a large strain on local government, because Federal Government pays no property taxes into the coffers and property taxes, as you well know, schools, and all the services that a county provides has to fall on a thing called property taxes and personal property taxes. Right now they are fairly high.

I can remember in the eighties when both of the coasts, California on the west coast and the east coast, were in great shape. Economically they were booming in the eighties. The midlands were dying. We had a declining tax base.

The Senator from Oregon can probably remember the days in eastern Oregon when we had a declining tax base and we were put under severe restraints, because people were tired of paying higher property taxes. So we had a thing like initiative 105 in Montana. We could levy no more, no more mils to provide the services for our citizens. So that meant we had to be very creative.

And I might get over into another area here and say that it was then that we developed a 5-year budget in Yellowstone County, and when you worked your yearly budget and if you changed some figures or you changed direction or priorities in your spending, then you would see how that would be reflected 5 years down the line and sometimes it was not very good. So you pulled back on that.

I think this Government should have at least a 2-year budget, and it would help us in dealing with some of our fiscal problems of this Government.

So as that county commissioner, I have to tell you that the current structure of the PILT estimates is totally inadequate. PILT funds are used by more than 1,700 counties in 49 States and all 56 counties in Montana. We used it for a variety of reasons—health care, education, transportation, road maintenance, search and rescue, fire protection, the whole litany of essential services that we provide our people in our counties.

And the current PILT payments do not nearly come close to equaling the revenue that would be raised if the land were in private ownership.

Now, the Senator from Oregon alluded a while ago to a thing called conservation and stewardship. Conservation is the wise use of a renewable resource. Communities depend on that resource every year. So we are very, very aware of our water management, our soil management, what we do on the land and how much we do on the land.

So, with this in mind, if the Government basically wants to look and say, OK, if we want to take care of our national debt or we want to deal with the deficit—I know if I were a big landowner and if I were in way over my head and the banker says, "You have to pay up," I am going to have to sell some of those assets.

Maybe we should look at this body. It is not time to look where we have in one county in eastern Montana there might be a 40-acre plot that belongs to the BLM in the middle of 4 or 5 sections out there that are landlocked. It has to be managed. The cost of management is the same as with the whole section. But, nonetheless, it is there and maybe I think it should be sold to the private landowner and there are

people who buy it in those isolated cases. You have to take it on a case-by-case basis and put that money in the Treasury. Let us sell some assets. Let us get settled up and let us try to run it with a little more judgment than we have exercised in the past.

I congratulate the Senator from Oregon, because he has been very helpful, because last year we were working with the Senator from Colorado, who is no longer in this body, and we knew what we were up against that year, too, last year, and I think that the chairman and the ranking member of the Appropriations Committee did do the appropriate thing last year when they said, OK, let us sit down and let us take a look at this thing. Let us approach it sensibly and in a manner in which we can deal in this.

I congratulate my ranking member.

Mr. President, I rise today in support of the Payment-in-Lieu of Taxes Act Amendments of 1993. Those of us who represent western States have to deal with the problem caused by the fact that the Federal Government owns such a large proportion of the land base in our States. Of all the western States, Montana actually has one of the lowest percentages of public land—a little over 35 percent. However, that 35 percent equals approximately 28.5 million acres.

In other words, the Federal Government owns roughly as much land in Montana as is in the total combined area of the seven States of Connecticut, Delaware, Maryland, Massachusetts, New Jersey, Rhode Island, and Vermont. Each of these States has less than 6 percent Federal land. Consequently at least 94 percent or more of each of these States is open for economic development and is part of the local tax base.

Having the Federal Government as the single major landowner in a State places severe restrictions on economic development in that State. It also places a large strain on local government because the Federal Government pays no property taxes on the land it owns. Property tax is, of course, the single largest source of revenue for local governments. PILT, the payment in lieu of taxes, is the way that most counties get any reimbursement from the Federal Government to compensate for the Federal land in a county.

As a former county commissioner, I've got to tell you that the current structure for PILT payments is totally inadequate. PILT funds are used by more than 1,700 counties in 49 States and all 56 counties in Montana to help fund education, transportation, health care, police protection, road maintenance, search and rescue, fire protection and a whole litany of other essential local services. Current PILT payments do not come close to equaling the revenue that would be raised if the land was in private ownership. Unfortunately, the PILT payment has not increased since its inception in 1976.

Inflation has caused the cost of providing government services to the citizens who live in or visit public lands areas to rise dramatically. Action is needed today because the PILT program has been authorized at the same level for 14 years, resulting in payments that are worth less than half of their original value. This bill provides just the type of action that is needed.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. HATFIELD. Mr. President, I would like to thank the Senator from Montana for his contribution that he has made. In fact, one of his first identifications I recall when he arrived in the Senate was to raise this issue along with other issues dealing with land ownership and responsibilities of the western States.

The Senator very lightly touched on the fact that he served on the board of county commissioners in Montana.

That does not isolate him to Montana. The Senator has traveled the States of Oregon extensively and Idaho and Washington. If there is anyone who knows more of the parks and roads of the western States, besides my colleague Senator PACKWOOD, it is the Senator from Montana. I think in that role he has served as a public trust in maintaining the service in that county but also knowing the western States as he does and realizing my State is a State much like his. They are States of small communities. There is no reason to exacerbate our urban center problems anymore and let the small communities die in our areas of the West and have that migration of people into those urban centers which merely exacerbate the unsolved problems we are dealing with now in those urban areas.

That is what happens. When those small towns dry up and they have no economic base, through the loss of the resource base economy, and they have an inadequate PILT program, what is there for the young people to ever look forward to? The people already in the work force migrate from college.

We have four communities in my State alone that are candidates today for those towns. They have a 1- or 2-mill economy. And they are small operators, small enterprises, medium-size enterprises that depend entirely on public timber for their survival.

Mr. BURNS. Will the Senator yield on that point?

Mr. HATFIELD. Yes.

Mr. BURNS. Mr. President, we underestimate the social costs in Government whenever these towns go down; the costs that it cost to pay our rent, so to speak, to be the good neighbor, the Federal Government.

Now the public does own those lands, because they are part of this Government. If they want to own those lands, they have to understand that there is a price of ownership; there is a responsibility to the community.

I have always been told that a community, to survive, has to have four things: It has to have, well, in our case, a grain elevator; it has to have a school; it has to have a church; it has to have a post office. There are other factors there, but we will not mention those at this time.

But if you lose any of those four elements in a community, it is severely damaged for its survival. That is why I push technology in the telecommunications industry, because that is going to the infrastructure, the future, as far as rural America is concerned.

But the social costs of taking care of those families and the costs to this Government is so great, as compared to the taxes or the fees we pay for our land to those communities to keep them healthy and viable, there is no comparison; and also to maintain that quality of life that these people have chosen to take.

Mr. HATFIELD. Mr. President, the Senator from Montana certainly has made a very excellent point on raising the social values, the social dimension, the social costs of this matter of land management.

What he has done is put a human face on this. Whenever we get up here to debate good land management, resource management, I want to say to the Senator I hear debate after debate and I hear very little reference made to the human factor in that debate. We get to be very mechanical, very engineering-like. We can discuss all of the attributes of a certain policy but oftentimes we lose to the human dimension, the human face.

I find that is true even in the Appropriations Committee. We talk about a dollar level, a threshold level, for certain programs. I like to go out in my community and visit with those shelters for abused women, visit those places where the homeless are trying to be helped or the sick being helped or the educated people to be educated.

I happen to be a visual learner. But when I see those human faces and then I come back to these programs and debate them, they have far more meaning. I am sure many of my colleagues are visual learners like I am in visiting their constituents.

But I do want to thank the Senator for raising the social factor. When we talk about PILT, it is a money matter. It is a threshold of support. It is a payment in lieu of taxes, and that is all very impersonal.

But let me tell you, you get out in those communities where their health and their safety and all the other services and their education are at stake, that puts a human face on it. I hope my colleagues would look at this in that way.

Thank you, Mr. President.

I ask unanimous consent that Senator HATCH of Utah be added as a cosponsor of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

By Mr. SIMON (for himself and Mr. WOFFORD):

S. 456. A bill to establish school-to-work transition programs for all students, and for other purposes; to the Committee on Labor and Human Resources.

CAREER PATHWAYS ACT OF 1993

Mr. SIMON. Mr. President, I am pleased to be introducing this afternoon in the U.S. Senate, with my distinguished colleague from Pennsylvania, the Career Pathways Act of 1993.

It is an attempt to pull business, labor, and education together so we provide greater help to those who are not college bound.

It does not suggest that those who take part in this cannot eventually change their course. It is not rigid as it is in Germany, for example, where, if you choose at an early age, you are going to go in one direction, you have to stay in that direction. But it encourages the practical cooperation that really can be meaningful in the lives of young people. Frankly, I think it can be very helpful in reducing dropout rates, in developing skills, the skills that I hear over and over again are needed. It meshes two heads. When I meet with business leaders, they say over and over again, "We cannot find the quality people we need for employees." Then when I talk to people in communities where you have high unemployment, they say, "We cannot find the jobs." This meshes these two things and, I think, moves in the right direction.

The Career Pathways Program provides young people in school with an opportunity to gain career skills through a rigorous academic and work-based learning system.

President Clinton has demonstrated a strong commitment to this kind of investment in human capital. In his book, "Putting People First," he says he wants to "Bring business, labor, and education leaders together to develop a national apprenticeship-style program that offers non-college-bound students valuable skills training, with the promise of good jobs when they graduate."

More recently, in his State of the Union Address, the President reiterated this commitment, pledging a significant expansion of youth apprenticeship-style programs. The Career Pathways Program is designed to meet this goal.

In 1988, the William T. Grant Foundation issued a report called "The Forgotten Half: Pathways to Success for America's Youth and Young Families." "The Forgotten Half" poignantly outlined a fundamental failure in our Nation's education and training system: We do not provide enough assistance to help young people make the transition from school to employment. About half of our students never go to college, and half of those who do never obtain degrees. Young people who do pursue postsecondary education often receive significant public and private aid, but those who do not go on to college many times receive virtually no help at all.

The Federal Government offers aid and loans to college students, and assists in funding the college and university research programs from which many college students benefit. Yet there is little Federal investment directed toward success for noncollege bound youth. The primary Federal job training program available to the foregotten half is title II of the Job Training Partnership Act [JTPA]. Only poor people are eligible for services under title II, and JTPA is so underfunded that less than 5 percent of the eligible poor receive services. To make matters worse, in the past, there have been abuses of the JTPA program that hindered the program's effectiveness. Last year, I authored changes that are now addressing those abuses. Still, since JTPA is woefully underfunded and targeted at only the poor, it will barely make a dent in the need. JTPA and other targeted programs must remain a part of our youth training strategy, but we must do more.

Structural changes that have moved us from a manufacturing- to a service-based economy, increasing global competition, and our failure to help the foregotten half, have resulted in a dramatic decline in earnings for those who do not graduate from college. As the National Center on Education and the Economy illustrated in the report "America's Choice: High Skills or Low Wages":

> The choice that America faces is a choice between high skills and low wages. Gradually, silently, we are choosing low wages. We still have time to make the other choice—one that will lead us to a more prosperous future. But to make this choice, we must fundamentally change our approach to work and education.

The Career Pathways Act is one critical step in moving America toward a high skill, high wage economy.

The bill is based on the input at two hearings held by my Subcommittee on Employment and Productivity held in December, here and in Chicago, and on numerous proposals and suggestions from educators, labor, industry, and youth training experts.

From these discussions we learned six key principles that guided us in drafting this bill. First, the use of the term youth apprenticeship is misleading. These programs are not apprenticeship programs as they have been traditionally known in this country. They have some similar elements, but they do not track participants into a narrow career choice, and they do not come with the guarantee of a job. Some programs are more like preapprenticeships, others are like career academies, others are adaptations of vocational education, tech-prep, cooperative education, or other programs.

Many people have struggled with the issue of what to call these programs: Apprenticeship-like, apprenticeship-style, preapprenticeship, work-based learning? We have chosen to call them career pathways which exemplifies the goals of this concept: To create career pathways or options for all young people.

Second, the best way to establish a national career pathways system is from the ground up, building upon local and State successes.

Third, there is not one specific model for a successful Career Pathways Program, as long as certain basic elements are there, local people must be given the flexibility to fashion programs that meet their needs.

Fourth, employers should get involved because this is a necessary human capital investment, and because, as responsible corporate citizens, they should contribute to the welfare of their community. While some incentives may be necessary—particularly for small employers—we should examine this issue carefully before providing any significant financial incentives for employer participation.

Fifth, successful European youth apprencticeship systems show us that it is crucial for industry, trade associations and labor unions to participate in the development of national skill standards and school-to-employment programs. In this country, the Federal Government needs to help support that effort.

Finally, a successful, national career pathways system must not label or target any particular group of students. The program must aim to improve schools and ensure options for all youth.

In determining the basic elements for successful career pathways programs, we have relied heavily on the work of Samuel Halperin, Patricia McNeil, Alan Zuckerman, and others with the American Youth Policy Forum, Hilary Pennington from Jobs for the Future, and Rob Ivry with the Manpower Development Research Corp.

I look forward to hearings and additional input from my colleagues on how best to ensure career pathways for all youth.

The Career Pathways Program is only one piece of the puzzle in our effort to provide a quality system for assuring a successful transition from school to employment. It represents a valuable step forward in providing a quality program for young people in high school. We must not forget, however, the pressing needs of high school dropouts and other out-of-school youth. Any comprehensive school-to-

employment effort must deal with their compelling needs. In addition, the Career Pathways Program must work hand in hand with efforts to establish educational and occupational goals and standards, as well as systemic school reform.

Senator WOFFORD and I look forward to working with the President, Secretary Reich, and Secretary Riley, who have all made work force preparation a priority for our Nation. Senator KENNEDY, the chairman of the Labor and Human Resources Committee, is also a leader in this area, as he is on so many important issues, and I look forward to working with him as the committee moves forward on this concept. I would be remiss if I did not also mention the invaluable work of Senator NUNN and Senator BREAUX who have for some time been leaders on the concept of work-based learning.

Mr. President, I ask unanimous consent that the text of the legislation, appear in the RECORD at the conclusion of our remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 456

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Career Pathways Act of 1993".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) the workplace skills required by high school graduates have changed dramatically;

(2) if the United States is going to be competitive in the world market, all students must leave secondary school with high skills;

(3) collaboration between schools and employers can improve academic instruction and workplace skills of students; and

(4) linking academic learning to the world of work can help promote an enthusiasm and motivation for learning in all students.

(b) PURPOSE.—The purpose of this Act is to coordinate or build upon existing programs and to promote the establishment of new programs that link schools and businesses to integrate academic learning and career skills, in order to—

(1) promote high academic standards;

(2) provide students with work skills recognized by an industry, in addition to a high school diploma and the potential for postsecondary education;

(3) involve students of all backgrounds in a program that links education with the workplace and involves students and employers in their communities;

(4) encourage teacher innovation and teamwork;

(5) integrate school-industry partnerships with school reform and restructuring efforts; and

(6) remove barriers to entry into all high-wage, high-skill occupations for young people regardless of race, socioeconomic status, or gender.

SEC. 3. CAREER PATHWAYS PROGRAM.

The Job Training Partnership Act (29 U.S.C. 1501 et seq.) is amended by adding at the end the following new title:

"TITLE VIII—CAREER PATHWAYS PROGRAMS

"PART A—GENERAL PROVISIONS

"SEC. 801. DEFINITIONS.

"For purposes of this title, the following definitions apply:

"(1) CAREER PATHWAYS.—The term 'Career Pathways' (hereafter referred to in this title as 'CP') programs includes any eligible partnerships which provide school-to-work transition programs that are for all students and that meet the requirements described in section 811(b)(5). School-to-work transition programs such as preapprenticeship programs, career academies, mentoring programs, tech prep, co-op education, youth programs under parts B and C of title II of the Job Training Partnership Act, vocational education, school-based enterprises, or community service internships, that provide services that meet the requirements described in section 811(b)(5) may be considered as CP programs.

"(2) COACHING.—The term 'coaching' means demonstrating skills a student will need to perform assigned tasks, monitoring and critiquing a student's performance, and modeling good performance (such as thinking through decisions out loud).

"(3) COUNSELING.—The term 'counseling' means one-on-one discussions between counselors and students that help students resolve any personal, academic, or employment-related problems and that aid students in developing career options with attention to gender, race, or socioeconomic impediments to career options.

"(4) ELIGIBLE PARTNERSHIP.—

"(A) IN GENERAL.—The term 'eligible partnership means the collaboration or partnership of—

"(i) a school or local education agency;

"(ii) an employer or an employer association; and

"(iii) a labor union or employee representative.

"(B) OTHER PARTNERSHIPS.—An eligible partnership may also include—

"(i) a nonprofit organization;

"(ii) a community-based organization;

"(iii) an institution of higher education;

"(iv) a State employment agency; or

"(v) the private industry council.

"(5) EMPLOYEE REPRESENTATIVE.—The term 'employee representative' means an individual or association in a nonsupervisory role designated to represent the best interests of CP program students at the workplace with respect to all Federal and State employee protection laws, where a labor union representative does not exist.

"(6) INDUSTRY.—The term 'industry' means any employers, employer associations, and labor unions (or employee associations where labor unions do not exist), that participate in similar product or service markets.

"(7) MENTORING.—The term 'mentoring' means helping a student socialize and assimilate into a workplace culture by helping such student solve problems, advising such student on academic and career questions, and providing role models to students interested in participating in occupations which have traditionally been gender-specific.

"(8) PREAPPRENTICESHIP PROGRAM.—The term 'preapprenticeship program' means a program that provides academic and work-related instruction to equip students with the skills necessary to enter registered apprenticeship programs.

"(9) SCHOOL-TO-WORK TRANSITION.—The term 'school-to-work transition' means academic instruction and work-based learning that integrate academic, technical and occupational skills for the purposes of—

"(A) creating career and higher education options for high school graduates;

"(B) removing the labels of and barriers between college-bound and noncollege-bound students; and

"(C) removing the barriers to career-entry employment for youth.

"(10) WORK-BASED LEARNING.—The term 'work-based learning' means instruction that occurs at a workplace which integrates academic instruction and occupational skills, and that includes the use of a formal plan for managing a student's work experience. Such plan should map out sequential activities to teach workplace skills, build academic and technical skills, and provide such student with a comprehensive picture of interrelated occupations. Such plan should also identify one or more employees at the worksite who will provide coaching and mentoring for such student.

"SEC. 802. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this title $250,000,000 for fiscal year 1994, $500,000,000 for fiscal year 1995, and such sums as may be necessary for each of the fiscal years 1996, 1997, and 1998.

"SEC. 803. ESTABLISHMENT OF A GRANT PROGRAM.

"(a) OVERALL PROGRAM AUTHORITY.—The Secretary, in consultation with the Secretary of Education, shall—

"(1) award CP program grants to eligible partnerships;

"(2) award grants to States to develop or expand statewide CP systems;

"(3) award grants to an industry or trade association or a labor union to design and implement an industry-wide or occupation-wide CP program;

"(4) administer a system to inform employers and educators about CP programs with special consideration given to increasing the diversity of skilled youth, and to encourage such employers and educators to participate in CP programs, particularly programs located in economically disadvantaged areas;

"(5) establish or fund an entity to provide technical assistance to States, educators, employers, eligible partnerships, labor unions or employee representatives, or schools, particularly schools with high concentrations of economically disadvantaged students, with respect to establishing and maintaining CP programs;

"(6) assist national employer associations, labor unions, and training professionals in the research and development of national skills standards and certification that employ valid and unbiased methods of assessment;

"(7) make every effort to ensure that CP grants serve a diverse population in terms of gender, socioeconomic status, geographic location, and rural and urban settings;

"(8) provide a uniform format (that is in accordance with other Federal education and human resource program reporting requirements, to the extent possible) for program grant recipients to annually report program outcomes that identify program outcomes by age, gender, and race;

"(9) conduct an annual survey of all planning grant recipients to determine the progress of statewide school-to-work transition systems;

"(10) study the need for a national CP system and not later than December 31, 1995, prepare and submit to the appropriate Committees of Congress a report containing findings and recommendations with respect to such study;

"(11) review and approve statewide plans for CP programs; and

"(12) evaluate the CP programs and, not later than December 31, 1995, and biannually thereafter, prepare and submit to the appropriate Committees of Congress a report on the status and success of the programs funded under this Act.

"(b) GRANTS AUTHORIZED.—The Secretary may award grants under this title on a competitive basis to—

"(1) eligible partnerships to enable such partnerships to establish, expand or operate CP programs; and

"(2) States to enable such States to plan and develop statewide systems for establishing or operating CP programs.

"PART B—CP PROGRAM PARTNERSHIP GRANT

"SEC. 811. GRANT APPLICATIONS.

"(a) IN GENERAL.—

"(1) ELIGIBILITY.—To be eligible for a grant under this title, an eligible partnership shall prepare and submit an application to the Secretary at such time, in such form, and accompanied by such information as the Secretary may reasonably require.

"(2) JOINT SUBMISSION.—An application under paragraph (1) shall be jointly prepared and submitted to the Secretary by members of the eligible partnerships.

"(b) CONTENTS OF APPLICATION.—Each application submitted under paragraph (1) shall—

"(1) describe the lead fiscal agent of the partnership and the manner in which funds received by such partnership will be used to design and implement a CP program;

"(2) provide assurances that the eligible partnership will meet the matching requirement of section 813(c);

"(3) identify the funding sources to be used in meeting the matching requirement of section 813(c);

"(4) describe how funds received, or to be received, by the applicant from appropriate Federal programs will be used to operate the CP program;

"(5) provide assurances that the CP program to be established by the applicant will include—

"(A) an integration of school-based learning with worksite learning, including—

"(i) collaborative efforts between teachers and industry to assimilate academic curricula and classroom teaching methods with worksite technical and organizational requirements; and

"(ii) use of work-related equipment or materials whenever possible in classrooms;

"(B) training and orientation for teachers and employees that provide—

"(i) teacher training in and orientation to occupational, technical and employer skill requirements, including addressing any gender equity issues where appropriate; and

"(ii) employee training in and orientation to educational and mentoring requirements;

"(C) the use of high academic standards that maintain future academic and career options;

"(D) occupational and technical training that provides—

"(i) broad experience in and an understanding of all aspects of an industry, such as planning, management, finance, underlying principles of relevant technologies, community issues, and labor issues;

"(ii) experience with and knowledge of any technical and production skills, as well as health, safety, and environmental standards; and

"(iii) industry-wide, occupation-specific knowledge, skills and abilities;

"(E) instruction in employability skills, including—

"(i) the ability to manage resources, to work with others and to maintain good work habits; and

"(ii) the ability to acquire and use information, to understand and master systems, and to work with technologies;

"(F) work-based learning that includes—

"(i) a formal training agreement between the school, teacher, student, employer, parents or guardian, and participating employees or an employee representative, outlining respective roles and responsibilities of each individual or entity described in this clause;

"(ii) a formal work-site training plan;

"(iii) employee mentors; and

"(iv) paid work for students with wages to reflect such students' increasing skill levels throughout such students' participation in the program;

"(G) preenrollment counseling and support or linkages to programs that provide—

"(i) as early as possible, career guidance, exploration and counseling to help students define academic goals and develop career interests; and

"(ii) supplemental tutoring and academic assistance to help students achieve the educational prerequisites for participation in a CP program;

"(H) career guidance and program support services that provide—

"(i) career guidance and counseling to students in preparation for post-program employment and education; and

"(ii) supplemental educational, occupational, or work-based learning assistance to assist students who are experiencing difficulty in meeting CP program standards;

"(I) skill certification or postsecondary educational credit for students, including the receipt of a certification of occupational skills based on national or industry-wide occupational skill standards, where available, by students who have successfully completed the CP program (such certification is to be in addition to academic credits earned for the high school diploma);

"(J) active collaboration among employers, schools, students, parents, unions, or employee representatives and community-based organizations, where appropriate, in program design and implementation;

"(K) methods to assess academic mastery, employability knowledge and skills, occupational and technical instruction as well as matriculation into postsecondary work or educational programs;

"(L) assurances from employers that Federal and State laws relating to the safety, health, and well being of employees, including the right to a harassment-free workplace, apply to CP program students and that CP students do not displace current employees;

"(M) admission criteria that permit entry into the CP program and that are consistent with Federal civil rights laws governing federally funded education programs and governing employers;

"(N) training options and career counseling that address nontraditional employment for women and that facilitate the entry of minorities and women into high-skill, high-wage professions; and

"(O) systematic efforts to place graduates in full-time employment in the field for which such graduates have been certified, or to assist such graduates in pursuing postsecondary education or continued work preparation; and

"(6) provide assurances that students who complete the CP program will be academically and technically prepared to enter postsecondary educational institutions, registered apprenticeship programs, or other structured, employer-sponsored training programs.

"SEC. 812. GENERAL PROGRAM REQUIREMENT OF GRANT RECIPIENTS.

"(a) ANNUAL REPORT.—All grant recipients under this title shall submit to the Secretary an annual report that includes evaluations of the progress made by students in the CP program.

"(b) FORMAT OF ANNUAL REPORT.—The Secretary shall by regulation prescribe a uniform format that all grant recipients shall use in the submission of annual reports under paragraph (1).

"SEC. 813. FEDERAL CP SHARE.

"(a) IN GENERAL.—The Federal share under this title may not exceed—

"(1) 80 percent of the cost of the CP program for the first year for which the eligible partnership receives funds under this title; and

"(2) 50 percent of the cost of the CP program for the second and any succeeding year for which an eligible partnership receives funds under this title.

"(b) COST DEFINED.—For purposes of subsection (a), the term 'cost' means the additional cost per public high school student per year incurred by the local educational agency and members of the eligible partnership in excess of the cost per student per year of a public high school education. Such cost does not include the cost of student wages.

"(c) NON-CP SHARE.—

"(1) MATCHING REQUIREMENT.—The Secretary may not make a grant to an eligible partnership under this title unless such partnership agrees to make available non-CP contributions toward the costs of carrying out the CP program established with the amounts received under the grant. Such eligible partnership may use funds from other Federal programs to make up the non-CP contribution. The amount of such non-CP contributions shall be equal to at least—

"(A) in the case of the first grant year, 100 percent of the costs of such program during such year less the Federal CP share under subsection (a)(1); or

"(B) in the case of a second and any succeeding grant year, 100 percent of the costs of such program during such year less the Federal CP share under subsection (a)(2).

"(2) IN-KIND CONTRIBUTIONS PERMITTED.—The share of payments from sources other than funds made available under this title may be in cash or in-kind fairly evaluated, including equipment and services.

"PART C—STATE CP PROGRAM SYSTEM PLANNING GRANT

"SEC. 821. GRANT APPLICATIONS.

"(a) IN GENERAL.—To be eligible for a grant under this title, a State, in consultation with the State Human Resource Investment Council or if such Council does not exist, the State elementary, secondary, and vocational education agencies, shall prepare and submit an application to the Secretary at such time, in such form, and accompanied by such information as the Secretary may reasonably require.

"(b) CONTENTS OF APPLICATION.—Each application submitted under subsection (a) shall describe the manner in which the funds received by a State under this title will be used to design and implement a statewide CP program that addresses, as appropriate—

"(1) the planning and development of a system for identifying employers, who provide employment in industries where high-wage, high-skill occupations are growing, to participate in CP programs;

"(2) the identification and development of an entity to help link schools with employers for the establishment and ongoing support of CP programs;

"(3) the provision or funding of a system of technical assistance for schools, teachers, employers, unions or employee representatives, community-based organizations, or parents, interested in establishing CP programs that encourage a diverse set of career options for all students;

"(4) the coordination with other States or national associations to develop unbiased and valid statewide skill certification processes for CP programs and participation in the development of national skills standards and skills certification for CP program graduates;

"(5) the provision of training and orientation for members of eligible partnerships in gender equity issues in education, career selection, and on presenting non-traditional career options to all students; and

"(6) the expansion of existing statewide CP programs.

"SEC. 822. GENERAL PROGRAM REQUIREMENTS FOR STATE CP PROGRAM SYSTEM PLANNING GRANT RECIPIENTS.

"(a) IN GENERAL.—The Secretary shall provide an annual survey to all grant recipients that shall be designed to evaluate the progress of statewide CP programs and skill standards and certification development.

"(b) SURVEY RESPONSE.—Grant recipients shall submit a response to the annual survey under paragraph (1) to the Secretary not later than 60 days after such survey is received.

"PART D—INDUSTRY CP PROGRAM GRANTS

"SEC. 831. GRANT APPLICATION.

"(a) IN GENERAL.—To be eligible for a grant under this title, an industry or trade association or a labor union shall prepare and submit to the Secretary an application at such time, in such form, and accompanied by such information as the Secretary may reasonably require.

"(b) CONTENTS OF APPLICATION.—Each application submitted under subsection (a) shall describe the manner in which funds received by an association or union under this title will be used to design and implement an industry-wide or occupation-wide CP program that addresses, as appropriate, issues described in paragraphs (1) through (5) in section 821(b).".

SEC. 4. TECHNICAL AMENDMENTS.

The table of contents in section 1 of the Job Training Partnership Act is amended by adding at the end the following new items:

"TITLE VIII—CAREER PATHWAYS PROGRAMS

"PART A—GENERAL PROVISIONS

"Sec. 801. Definitions.
"Sec. 802. Authorization of appropriations.
"Sec. 803. Establishment of a grant program.

"PART B—CP PROGRAM PARTNERSHIP GRANT

"Sec. 811. Grant applications.
"Sec. 812. General program requirement of grant recipients.
"Sec. 813. Federal CP share.

"PART C—STATE CP PROGRAM SYSTEM PLANNING GRANT

"Sec. 821. Grant applications.
"Sec. 822. General program requirements for State CP program system planning grant recipients.

"PART D—INDUSTRY CP PROGRAM GRANTS

"Sec. 831. Grant applications.".

Mr. WOFFORD. Mr. President, it is my privilege to join my friend and colleague, Senator SIMON, in introducing the Career Pathways Act of 1993. This bill will help create a nationwide system of apprenticeships. It is my belief that the apprenticeships can be an important part of dramatically reforming education, helping young people who are not heading to college, and of making our workforce competitive in the global marketplace.

Mr. President, before I came to the Senate, I served as the head of the Department of Labor and Industry in Pennsylvania. In that role, I learned a good deal about apprenticeships as our department took the initiative in developing a statewide system of youth apprenticeships adapted from Germany's system. Our pilot programs in Pennsylvania, I believe, can serve as a model for the rest of the Nation.

As of January 1993, the Pennsylvania Youth Apprenticeship Program—still small—involved approximately 75 firms sponsoring 113 students in high-skill metal working, manufacturing, and health care.

Under the able direction, first of Bob Coy and now of Jean Wolfe, with the leadership of Secretary of Commerce Andy Greenberg, Secretary of Education Donald Carroll, and Thomas Foley it is our Commonwealth's goal to start 12–18 new sites in 1993. Our efforts have received strong union and corporate support, as well as foundation support from the Alfred Sloan Foundation and the Howard Heinz Endowment.

The Pennsylvania Youth Apprenticeship Program currently consists of a rigorous 4-year curriculum that combines academic, technical and occupational education for students starting in the 11th grade. Students enter the program at the conclusion of their sophomore year and spend 2 days each week at the worksite and 3 in the classroom. They are sponsored by an employer, are considered company employees and receive a base weekly pay, are assigned a mentor and work at the worksite under the careful guidance of a skilled supervisor. The four walls of their classroom are expanded to include their community and the workplace, and students learn by doing. Our system is focused on outcomes and has challenging standards of proficiency and competency in both the classroom and the workplace. Most importantly, our model integrates secondary and postsecondary credentials.

I was very encouraged yesterday when Secretary Reich and Secretary Riley jointly appeared before our Labor and Human Resources Committee. The partnership and concerted efforts of labor and education will be necessary to ensure that we develop a workforce able to compete in this increasingly competitive global economy.

The Career Pathways Act of 1993 emphasizes much of the best elements of what we have learned and pioneered in Pennsylvania. It is an enabling bill that will provide a foundation for expanding apprenticeship efforts in all their diversity throughout the Nation.

Most importantly, this act emphasizes the type of partnerships—leveraging resources from schools, unions, corporations, foundations, State and local governments—that will be key to making these efforts work.

So I look forward to working with Senators KENNEDY and KASSEBAUM and Secretaries Riley and Reich to achieve legislation this year that will create a diverse and centralized and flexible system of apprenticeships, the kind of system President Clinton has called for.

If we do this well, we can fundamentally reform American education, reshape the nature of school-to-work transition in this country, improve our ability to compete, and develop the lives and careers of those young people who have been called the forgotten half.

By Mr. EXON:

S. 457. A bill to prohibit the payment of Federal benefits to illegal aliens; to the Committee on Finance.

FEDERAL BENEFITS TO ILLEGAL ALIENS

Mr. EXON. Mr. President, I rise today along with Senators GRASSLEY, HELMS, and NICKLES to introduce legislation to prohibit the payment of direct Federal financial benefits to illegal aliens. This legislation will help deter illegal immigration and reduce unintended Federal spending.

In 1986, the Congress attempted to control illegal immigration into the United States. Unfortunately, illegal immigration persists, and one explanation is that a powerful magnet for illegal immigration still remains. That attraction for illegal immigration is the real or perceived availability of U.S. Government benefits to illegal aliens.

Today, I rise to introduce legislation to establish a Governmentwide policy that directs that Federal financial benefits not be paid to illegal aliens unless specifically provided by the Immigration and Nationality Act.

Over the years, the Congress has crafted ad hoc qualifications in Federal benefit statutes. At times, due to congressional inaccuracy or expansive court interpretations, these statutes have been used to provide Federal financial benefits to illegal aliens.

This situation has led to the payment of unemployment, Social Security, health care and housing benefits to individuals who have no legal right to even be in the United States.

In an area of massive Federal deficits, even small instances of waste, fraud, and abuse cannot be tolerated.

The Federal Government must insure that limited Federal funds go to their intended beneficiaries. The Congress has made significant progress in re-

quiring verification of status for certain entitlement programs, and in authorizing the systematic alien verification for entitlement programs better known as the SAVE Program.

However, these steps contained in the Immigration Reform and Control Act of 1986 can only be as effective as the interpretations of the various underlying benefit statutes.

Our Nation faces large Federal deficits. Federal dollars paid to an illegal alien, sympathetic or otherwise, are literally dollars taken away from one of our own citizens.

This legislation gives the Congress an opportunity to set the record straight. This measure is both a means to control illegal immigration and a means to control budget deficits. Without the real or perceived attraction to Federal benefits, illegal immigration will be deterred. Without the seepage of benefits away from intended beneficiaries, money will be saved. Similar legislation was adopted by the Senate as an amendment to the immigration reform bill in 1990. Unfortunately, that provision was dropped in conference that year for reasons unknown to this Senator.

Simply put, Mr. President, this legislation states that Federal benefits should not go to those who are in the United States illegally. If my colleagues feel as I do, that taxpayers' dollars should not go to illegal aliens, I ask them to join me in support of this measure.

Mr. President, I send the bill to the desk. I ask that it be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 457

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PROHIBITION ON PAYMENT OF FEDERAL BENEFITS TO ILLEGAL ALIENS.

(a) DIRECT FEDERAL FINANCIAL BENEFITS.—Notwithstanding any other provision of law, no direct Federal financial benefit or social insurance benefit may be paid, or otherwise given, on or after the date of enactment of this Act, to any person not lawfully present within the United States except pursuant to a provision of the Immigration and Naturalization Act.

(b) UNEMPLOYMENT BENEFITS.—No alien who has not been granted employment authorization pursuant to Federal law shall be eligible for unemployment compensation under an unemployment compensation law of a State or the United States.

(c) DEFINITION.—For the purposes of this Act, the term "person not lawfully within the United States" shall be any person who at the time he or she applies for, receives, or attempts to receive such Federal financial benefit is not a United States citizen, a permanent resident alien, an asylee, a refugee, a parolee, or a nonimmigrant in status.

By Mr. SMITH (for himself, Mr. REID, Mr. SHELBY, Mr. WALLOP, Mr. HATCH, Mr. GREGG, Mr. DOMENICI, Mr. MACK, Mr. HEFLIN, Mrs. KASSEBAUM, Mr. STEVENS, Mr. GRAMM, Mr. HELMS, Mr. D'AMATO, Mr. DANFORTH, Mr. BAUCUS, Mr. SIMPSON, Mr. MCCAIN, Mr. LOTT, Mr. DOLE, Mr. BURNS, Mr. BROWN, Mr. THURMOND, Mr. BRYAN, Mr. COHEN, Mr. CRAIG, and Mr. NICKLES):

S. 458. A bill to restore the second amendment Rights of all Americans; to the Committee on Governmental Affairs.

REPEAL OF THE D.C. STRICT LIABILITY GUN BILL

• Mr. SMITH. Mr. President, on behalf of myself and 26 additional cosponsors, I am today reintroducing legislation to repeal the D.C. strict liability gun bill.

This D.C. statute is a strange and counterproductive law. It was enacted by the District of Columbia in an ostensible attempt to control the District's admittedly serious crime problem. The problem is that it attempts to do so by allowing the District of Columbia to reach beyond its own jurisdiction to determine what types of firearms residents of the 50 States may or may not buy.

It makes manufacturers, as well as distributors, liable for crimes committed with semiautomatic firearms in Washington, DC. The ramifications of that law are startling.

Assume, for example, that a resident of South Carolina legally purchases a semiautomatic firearm manufactured by Glock, a firearms manufacturer with operations in the State of Georgia. Assume further that the firearm is then stolen and transported into the District of Columbia where it is used by a drug dealer to shoot a rival drug dealer. Under the D.C. gun law, the injured drug lord could sue Glock, the company in Georgia which manufactured the gun, and the South Carolina dealer. In fact, the only party that the D.C. gun law would not allow him to sue is the criminal who shot him. The company which made the gun is liable, the distributor which legally sells the gun is liable, and the person who did the killing is not liable—at least under this particular law.

Surely, there is some twisted sense of logic here that I fail to understand. The only conceivable rationale behind this misbegotten enactment is that the District of Columbia is trying to control its own crime problem by enacting national gun control.

If the manufacturer of a semiautomatic firearm can be held liable for all damages and thus potentially put out of business every time one of its firearms is misused in the District of Columbia, then, ultimately, one of two results will follow: Either the national manufacture of semiautomatics will come to a complete halt or firearms manufacturers will cease to sell firearms, any firearms, to law enforcement agencies located in the District of Columbia.

This is because the one sure way that firearms manufacturers and dealers can avoid liability under the D.C. law is to deny the District jurisdiction over their operations, and this can be accomplished only by refusing to sell firearms of any type to the Capitol Police, the FBI, the Secret Service, the D.C. Police, the Bureau of Alcohol, Tobacco, and Firearms, and other D.C.-based law enforcement officials or agencies.

Already, Colt Manufacturing Co. of Connecticut, Gun South, Inc., of Alabama, Intratec of Florida, Action Arms Ltd. of Pennsylvania, Beretta USA of Maryland, Springfield Armory of Massachusetts, and Sturm, Ruger & Co. of Connecticut have indicated either that they will cease doing business with District-based law enforcement authorities or that they are seriously considering doing so.

Mr. President, I ask unanimous consent that letters from Colt, Gun South, Intratec, Action Arms, Beretta, Springfield Armory, and Sturm, Ruger by printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COLT'S MANUFACTURING CO., INC.,
Hartford, CT, November 19, 1991.

Congressman DANA ROHRABACHER,
House of Representatives, Longworth House Office Building, Washington, DC.

DEAR CONGRESSMAN ROHRABACHER: Colt's Manufacturing Company has been a proud supplier of reliable firearms of the United States Government and to America's law enforcement officers for over a century and a half. However, we are now faced with a law in Washington, D.C. unlike any other in history, and this new law may force Colt's to reconsider its sales policies regarding both the D.C. law enforcement community and the U.S. Government.

This unconscionable new law could make colt's and other manufacturers liable in civil lawsuits to anybody claiming to be injured by anyone using, or misusing, certain firearms without regard to the conduct or misconduct of the person who fires the shot, and without regard to the care and safety with which the firearm is manufactured.

Because Washington, D.C. already has restrictive gun laws, Colt's does business there only with law enforcement and military agencies. Since the new law contains no exemptions for firearms sold to law enforcement or the military, all of Colt's future business in the District of Columbia could be in question. We may be forced to refuse to sell our products to such agencies in order to protect our company, its union work force and its management from the disastrous consequences of lawsuits which could be filed under the new law.

Sincerely,

JOHN HOLJES,
Vice President.

GSI INC.,
Trussville, AL, December 10, 1991.

Senator BOB SMITH,
Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR SMITH: It is with deepest regrets that GSI Incorporated must reexamine

our current marketing policies in regard to current sales to US Government and District of Columbia law enforcement agencies in the event legislation is passed that would make firearms manufacturers or their agents liable for damages to persons injured by criminal misuse of firearms. If such legislation is passed, it is our intention to refrain from participation in any procurement action made by all of the subject agencies in order to protect GSI from the adverse effects of litigation resulting from the proposed legislation.

Sincerely yours,

DONALD F. WOOD,
President, GSI Inc.

INTRATEC,
December 10, 1991.

Senator BOB SMITH,
Dirksen Building, Washington, DC.

DEAR SENATOR SMITH: The following is in reference to the Washington, D.C. firearms manufacturers' liability law. This law could assign liability to us from persons claiming to be victimized by the use of firearms, irrespective of the behavior of the firearm user or the safety features accompanying the firearm.

We regret to inform you, that in the event this law goes into effect, it is our intention not to sell our firearms to any person, governmental agency, or law enforcement agency located in the District of Columbia.

We regret having to consider such an action, but the broad and vague nature of the statute along with its unconstitutional expansion of liability dictates that such action be taken.

Sincerely,

MARTHA FERNANDEZ,
Office Manager.

ACTION ARMS LTD.,
Philadelphia, PA, December 10, 1991.

Senator BOB SMITH,
Dirksen Building, Washington, DC.

DEAR SENATOR SMITH: Since our founding over 12 years ago, numerous federal departments, agencies services and bureaus have procured firearms from our company, and are continuing to do so. However, a new law in the District of Columbia has convinced us that a reassessment of this supply program is necessary. This law could assign liability to us from persons claiming to be victimized by the use of firearms, irrespective of the behavior of the firearm user or the safety features accompanying the firearm.

Our only sales within District boundaries are to U.S. government and security agencies. Restrictive gun laws have precluded us from selling our products to the commercial market. However, the fact that these agencies have not been excluded from the new law will have a devastating impact on our company by in effect making Washington D.C. off limits for U.S. governmental sales.

Sincerely,

JERRY STERN,
President.

BERETTA U.S.A. CORP.,
Accokeek, MD, November 19, 1991.

Congressman DANA ROHRABACHER,
House of Representatives, Committee on the District of Columbia.

DEAR CONGRESSMAN ROHRABACHER: I wanted to write to you to express my concern regarding the recent bill passed in the District of Columbia which would make firearms manufacturers responsible for damages to persons injured by the criminal misuse of a firearm. I understand that your committee has oversight authority with respect to legislative actions taken within the District of Columbia.

I have several concerns regarding this legislation. First, it is wrong to say that, when a company manufactures any of the firearms depicted in this legislation, they do so with the intent that the weapon will be misused by criminals. Firearms manufacturers make their products for use by the sporting public, for collecting, for use in law enforcement and for use in self-defense. Laws currently exist which penalize those who make or sell a weapon for use in criminal activity. The Beretta Model AR 70 rifle, specifically named in the D.C. legislation, has been sold by my company over the years to shooting enthusiasts, to collectors, and to law enforcement agencies. To suggest that Beretta should be held responsible for actions of criminals when Beretta's production and sales of the AR rifle were made for legitimate pursuits smacks of gross unfairness.

Second, the D.C. bill is vague. While it lists some specific weapons as falling within its scope, it does not, on its face, define whether those weapons are listed as examples of firearms subject to the law, or whether they are simply demonstrative of firearms which would be subject to the jurisdiction of the law. My concern in this regard is increased by the introductory language of the bill, which makes a reference to handguns as contributing to crime problems in the District. A court, citing this language as expressing the intent of the law, could seek to hold the manufacturer of semiautomatic pistols or revolvers responsible for criminal acts committed with those products, even though the manufacturer had no notice of such potential liability.

Third, the bill may effectively rob government agencies located in the District of the ability to purchase weapons with which they can effectively respond to criminals. If the D.C. liability law becomes effective, Beretta, for example, will be compelled to consider ceasing any further sales to the D.C. police, the Park Police, the DEA, the FBI or any agency located in the District. Our concerns, of course, would be that we not establish minimum business contracts in the District such that D.C. long arm statutes would be used to impose liability on Beretta for criminal misuse of any of our products. Stated more simply, we are concerned that court, citing as evidence sales by Beretta to the D.C. police department, the FBI and other agencies, will rule that Beretta, by virtue of its close business contracts with the District, has agreed to be governed by the laws of the District of Columbia and can be held liable for criminal acts coincidentally involving a Beretta product. The net effect of Beretta's refusal to do business in the District would be that the law enforcement agents who most urgently need its excellent and reliable products will be unable to purchase them.

I have other concerns about the D.C. liability bill, including its unconstitutional encroachment on interstate trade, its continuation of the erosion of vital Second Amendment rights, and its tendency to distract attention from the causes of crime—which supporters of the bill seem loath to address because these causes go to the heart of the failure of social political institutions of which they are the major component—by placing attention on the mechanical devices which criminals sometimes use (or, in the case of the weapons listed in the bill, almost never use).

The D.C. liability bill will have no effect on crime, will impose liability on parties who are not responsible for the criminal conduct involved, is unconstitutional and vague, will with certainty involve the district in expensive legal defenses, and may strand District and Federal law enforcement agencies from the advances in technology which their counterparts and, ironically, the criminal element, will remain free to enjoy. For these reasons, I would encourage you to do everything possible to ensure that the bill is overturned by Congress.

Sincerest regards,

ROBERT L. BONAVENTURE,
Executive Vice President.

CALIFF & HARPER, P.C.,
ATTORNEYS AT LAW,
Moline, IL, November 19, 1991.

Hon. DANA ROHRABACHER,
House of Representatives, Washington, DC.

DEAR CONGRESSMAN ROHRABACHER: This office is general counsel to Springfield Armory, Inc., Geneseo, Illinois. I have been authorized to inform you that in the event the Washington, D.C. firearms manufacturers' liability law goes into effect, it is Springfield Armory's present intention not to bid on any contract nor sell any of its guns, both pistols and rifles, to any person, governmental agency, or law enforcement agency located in the District of Columbia.

Springfield regrets having to consider such an action, but the broad and vague nature of the statute along with its unconstitutional expansion of liability dictates that such action be taken.

With best regards, I remain,

Very truly yours,

WILLIAM H. DAILEY.

STURM, RUGER & CO., INC.,
Southport, CT, December 9, 1991.

Attn: Mr. Corrigan
Hon. BOB SMITH,
Dirksen Senate Office Building, Washington, DC.

DEAR MR. CORRIGAN: We would like to register in strongest possible terms our opposition to the above. Although we manufacture no firearms that appear on this list, we are most concerned that this is bad law, bad social policy, and bad precedent for any product, firearm or otherwise.

Sturm, Ruger & Company, Inc. was founded in 1949 and is a domestic manufacturer of high quality firearms for sporting, police, personal defense, and military applications. Federal agencies that have used Ruger firearms over the years include the Federal Bureau of Alcohol, Tobacco and Firearms, the U.S. State Department, the U.S. Customs Service, the U.S. Postal Service, the Department of Immigration and Naturalization, the Border Patrol, and the U.S. Marshall's Office. We have also recently sought to obtain U.S. government contracts from the U.S. Army, the F.B.I., and the D.E.A. We do no civilian business within the District of Columbia.

If not repealed by Congress, the courts will have to interpret the "doing business" aspect of the D.C. Long Arm Statute, and whether or not selling to a Federal agency within the District would thereby subject a manufacturer to this indefensible absolute liability sought to be imposed against lawful manufacturers of firearms many states away. Sturm, Ruger & Company, Inc. would then have to carefully consider whether the risk of payment of multimillion dollar judgments, without any available defenses under the Act, can support that relatively small portion of its business that arises out of Washington-based Government sales.

I must stress that no such decision has yet been made, and indeed, it cannot be made until the law is either overturned or the appellate courts speak conclusively on this subject. However, suspension of any sales within the District would have to be considered if such sales were to be held a basis for long arm jurisdiction under the D.C. Act.

Thank you for allowing us to explain our position.

Very truly yours,

STEPHEN L. SANETTI,
General Counsel.

Mr. SMITH. Mr. President, another deficiency in the District of Columbia's approach has to do with its potential precedential impact on tort law. Historically, liability has not been applied to products that are lawfully manufactured, lawfully sold, lawfully distributed, and function properly. If the District can implement national firearms policy because of its distaste for guns, what is next? Alcohol? Cigarettes? Condoms? As a result of the almost limitless implications of imposing strict liability on the manufacture or distribution of an otherwise lawful and nondefective product, virtually all of our Nation's top torts scholars oppose laws similar to this one.

For example, Victor Schwartz, author of "Schwartz on Torts" testified against the D.C. law in the House. Here is what he said:

Let me quickly share with you a key point—the law of torts is not the place to try to ban or eliminate the manufacture of assault weapons. Assuming that a person is seriously wounded or killed by an assault weapon that was well-manufactured and worked the way it was supposed to work, the manufacturer should not be subject to liability for harms caused by that weapon.

These views are not mine alone. My senior author, the late Dean William Prosser, author of the famous, "The Fall of the Citadel," a foundation piece for strict products liability, steadfastly maintained that such liability should not be imposed when products operate as they are suppose to operate and have nothing wrong with them. Lawyers would say that the product has "no defect."

* * *

Schwartz goes on to cite support from coauthors of the leading American textbook in the field of products liability, Jim Henderson of Cornell and Aaron Twerski of Brooklyn Law School, pointing out that courts have been steadfast in not applying the strict liability doctrine manufacturers when somebody else, a third party, a responsible party, uses the product in an improper way.

Mr. President, I also ask unanimous consent that the full statement of Richard Neely of the West Virginia Supreme Court of Appeals be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TESTIMONY BY JUSTICE RICHARD NEELY, WEST VIRGINIA SUPREME COURT OF APPEALS

(Before the House of Representatives Committee on the District of Columbia, September 12, 1991)

Thank you Mr. Chairman and the other distinguished members of the committee for the invitation to discuss the impact on the national law of products liability of the Assault Weapon Manufacturing Strict Liability Act of 1990.

For those of us who favor a national law of products liability, and particularly for those of us who favor S. 640 currently under consideration in the United States Senate, D.C. Act 8-289 is, perhaps, a Godsend. This statute makes such a mockery of what are generally thought to be "legitimate" tort principles that D.C. Act 8-289 may succeed in forcing the Supreme Court of the United States—even in the absence of Congressional action—to create a new, national common law of products liability.

Current American tort law, particularly the law of products liability, rests on three pillars. D.C. Act 8-289 burdens each and every one of these pillars to the breaking point.

The first tort law pillar is the constitutionality of State long arm statutes that permit plaintiffs to sue out-of-State defendants in local courts when the defendants have some "minimum contact," such as doing business or advertising for customers, in the plaintiff's home State. The U.S. Supreme Court has been surpassingly liberal towards plaintiffs of late in its determinations of what is sufficient to constitute a jurisdiction-giving "minimum contact."

The second pillar of modern tort law is the constitution's full faith and credit clause which requires all other State courts to enforce judgments entered under jurisdiction conferred by virtue of a long arm statute.

The third pillar is substantive tort law. Today's tort law is increasingly based on insurance principles, so that theories like strict liability and comparative fault (which were thought unacceptably radical just twenty years ago) are now accepted by the courts everywhere. These theories, in turn, are premised on risk-spreading insurance principles and, as a practical matter, tort liability is something against which every company with assets insures.

D.C. Act 8-289 is, at late last, an official codification of what we have previously been either thickly veiled or entirely unconscious schemes that redistribute wealth from out-of-State defendants to in-State plaintiffs through State tort law. Therefore, in order to understand how D.C. Act 8-289 mocks the tort system, laughing at the apparently sincere protestations of trial lawyers, law professors and State court judges that the States can be "fair and honest" in product liability cases, we must examine the current state of product liability law. Indeed, even before D.C. Act 8-289 was enacted, a national law of products liability was desperately needed!

I

I have been a judge of West Virginia's highest court since 1973, and I have served three times as West Virginia's chief justice. In that time, product liability law has undergone great changes, but as long ago as 1976 we were beginning to see a "competitive race to the bottom" in product cases. Typically, in a product liability case, there is an in-state plaintiff, an in-state judge, an in-state jury, in-state witnesses, in-state spectators, and an out-of-state defendant. When states (or the District of Columbia) are entirely free to craft the rules of liability any way they want, it takes little imagination to guess that out-of-state defendants as a class won't do very well.

Business justifiably complains of what appear to be utterly perverse results. For example, in 1976 John Newlin, a Pennsylvania farm manager, ordered an International Harvester Front End Skid Loader. That model came equipped with a roll bar, but Mr. Newlin requested that the roll bar be removed so the tractor could go through his low barn door. Jim Hammond, a farm employee, operated the skid loader for several months, but then one day in a freak accident turned the machine over and killed himself. Mrs. Hammond, Jim's widow, sued International Harvester and recovered a big verdict because the skid loader was defective for not having a roll bar—the roll bar that had been removed at the direction of the purchaser. This type of result is typical in product cases and is not necessarily even irrational if we want to create a no-fault insurance mechanism. But it is now time to give rational order to the insurance mechanism that we have created helter-skelter. The value, then, of D.C. Act 8-289 is that it focuses attention on the entire system's perversity and makes explicit certain premises that until now have been only implicit.

Until about 1960 a plaintiff in a product case had to show that the manufacturer was negligent, but now such a showing is no longer required. Today it is necessary only to demonstrate that the product had either a design or manufacturing defect that caused the plaintiff injury while the product was being used for either its intended purpose or another foreseeable purpose. Furthermore, juries are given such broad discretion that the purchaser—as in the Harvester case—can be entirely at fault yet an injured victim may still recover. None of this, however, was expressly admitted before the arrival of D.C. Act 8-289.

Unlike England, France and Germany (our major European competitors), the United States does not have one unified court system. Rather, we have fifty-three separate, uncoordinated court systems. First, there is the nationwide system of federal courts, which is divided into thirteen separate circuits that are only loosely held together by the Supreme Court of the United States. In addition to the federal courts, however, there are freestanding court systems in the fifty states, the District of Columbia, and Puerto Rico.

America's diversity of court systems leads to a diversity of law systems because American judges, like their English predecessors, have extensive law-making powers. Because each separate court system is administratively independent of the others, each separate court system is free to generate eccentric judge-made law at odds with the statutory and judge-made law of other jurisdictions. Thus, there is no "American" law of product liability in the sense of uniform national standards.

Given the profile of product liability suits, where the defendant is invariably from out-of-state, there is a "competitive race to the bottom" among state courts to create ever more liberal liability rules. This is not necessarily an intentional anti-business policy, but simply an exercise in economic self-defense: Any state court (or state legislature, for that matter) that does not keep up with the latest pro-plaintiff rulings is behaving entirely irrationally. That is why when one court pushes the frontier of product liability law further out because of an extraordinarily sympathetic set of facts, the new pro-plaintiff frontier quickly becomes the law for all, or nearly all, of the states. Now, however, with the advent of D.C. Act 8-289 the state legislatures have joined the fray, which will dramatically speed up the competitive race to the bottom.

Although my personal experience has been in a state with elected judges, I have found

that many of the most pro-plaintiff decisions—like the Harvester case—have come from either federal judges or appointed state judges. This is because even appointed trial and appellate judges are swayed by the emotional incentives that favor the redistribution of wealth from out-of-state defendants to local residents, which is why product liability law becomes more and more oppressive to business. In the case of the District's strict liability bill for the manufacturers of certain types of firearms, product liability's oppression of those who cannot respond politically is finally explicit. It is certain as night follows day that the District would never have passed the statute now under consideration if firearm manufacture were a major taxpaying D.C. industry with employees who could vote and management who could make campaign contributions.

By pointing these dynamics out I do not mean to imply that every, or even most product liability decisions are the result of bias against out-of-state defendants or of a cavalier disregard by judges and juries of accepted standards of right and wrong. But it is not the overwhelming majority of ordinary cases or ordinary statutes that determine the contours of the law; rather, it is the extraordinary case like the International Harvester case I discussed earlier, and the extraordinary statute, like D.C. Act 8–289 under discussion here today, that determine the contours of the law.

Thus, in close product liability cases where fact patterns are on the edge of existing law and the sympathies of a normally compassionate judge or juror would be aroused, there is no local incentive against nudging the case over the line in favor of, say, a widowed mother of four. However, these hard cases do not stand in isolation: As individual hard cases are nudged across the frontier by sympathetic judges, the frontier itself changes, but only in one direction. The District's strict liability law for certain types of firearms, however, is a new wrinkle in this whole process. Now, instead of an out-of-state defendant being required by local tort law to pay for an injury regardless of fault, tort law is being used to destroy an industry employing thousands of people who are total strangers to the jurisdiction abolishing the industry. This, then, dramatically highlights the most serious problem with current products liability law and shows conclusively why a national products law is necessary.

Product liability exposure is one of the most serious long-term problems facing the American economy, but the full dimensions of the problem are as yet only dimly understood by the public. In general, most large American companies have managed to live with current product liability law without going bankrupt or closing plants. But that is because most large American companies manufacture established products with known liability risks and have devised schemes—such as introducing new products off-shore—to keep their product liability exposure in the American market within manageable limits. Thus, the problem for the American economy is not that product liability will bankrupt otherwise solvent American companies, but rather that the defensive actions that American companies are forced to take to protect themselves from product liability exposure will move research, development and American jobs offshore.

Not all segments of American society face the same jeopardy from global competition. Thus, the upper middle class of lawyers, judges, university professors, doctors, and other "professionals" are not subject to having their jobs moved overseas. The District of Columbia is almost a one industry town, and that industry—national government—always takes its salaries, perks and benefits off the top! Skilled and unskilled labor in the private sector, on the other hand, as well as business managers, face constant competition from low cost foreign producers. America, then, is divided into two classes—those for whom America's international competitive position is a life or death issue, and those who are insulated from international competition.

The strength of the Roosevelt administration's New Deal was the breadth of shared economic concerns. Even those who had secure jobs during the 1930's still had parents, brothers, or friends who were out of work. The same broad unity of interest in economic matters does not exist today. Current social stratification produces a leadership class of professionals, journalists and academicians who are both psychologically and geographically removed from the lower middle class of blue collar and clerical workers threatened by foreign competition. Were this not the case, far greater attention would be paid in the media or our product liability law because the big loss from runaway product law is research and development not pursued, new technologies not developed, new products not introduced, market shares not dominated, learning curves not exploited and, most important, new jobs not created.

Draconian product liability rules discourage American companies from introducing new products in the American market until those products have been thoroughly tested abroad. However, if the initial product introduction is to be done, say, in Japan, then it is only intelligent to manufacture the product in Japan initially. Logically, if the manufacturing is to be done in Japan, then the research, development and engineering ought to be done in Japan as well. Inevitably, the product becomes a Japanese product and not an American product. The company doing the manufacturing may be an American company in the sense that it is owned by American shareholders, but the real wealth—namely the jobs associated with the production of the product and the technical skills acquired by managers and labor force—is owned by the Japanese. Firearms manufacture is a major worldwide industry. One effect, then of D.C. Act 8–289 will be to encourage firearms manufacturers to relocate abroad.

If you ask the average state judge whether she would like to redistribute some wealth from, say, Colt firearms to a local resident who was severely injured in a shooting accident, the judge will probably answer "yes." But if you ask the same judge to make a choice between high local employment in Colt's plants on the one hand, and redistribution of Colt's money on the other, she is likely to favor high employment over simple wealth redistribution. The problem is that except for the U.S. Supreme Court, no American judge can affect these trade-offs.

If, for example, as a West Virginia judge I insist that West Virginia have conservative product liability law, all I will do is reduce my friends' and neighbors' claims on the existing pool of product liability insurance paid for by consumers through "premiums" incorporated into the price of everything we buy. This is the explicit rationale of Blankenship versus General Motors, 406 S.E. 2d 781 (W.Va., 1991). Blankenship adopted the "crashworthiness" doctrine in automobile collision cases in West Virginia. In Blankenship I wrote for a unanimous court:

"[W]e do not claim that our adoption of rules liberal to the plaintiffs comports, necessarily, with some Platonic ideal of perfect justice. Rather, for a tiny state incapable of controlling the direction of the national law in terms of appropriate trade-offs among employment, research, development and compensation for the injured users of products, the adoption of rules liberal to plaintiffs is simple self-defense." 406 S.E. 2d at 786.

Thus, as a state judge I have admitted in a unanimous opinion written for the highest court of one of the fifty states that we, as a state court, cannot be rational in the crafting of product liability rules. If this is true of the highest court of a state, it is equally true of the D.C. City Council or a state legislature. No matter, then, how responsible I or the other members of our court want to be as state court judges, we are powerless to improve the overall American product liability system or reduce the exposure of West Virginia manufacturers to the caprice or malice of out-of-state courts, out-of-state juries, and out-of-state legislatures.

By trying unilaterally to make such improvements, we will succeed only in impoverishing our own State's residents without doing anyone, anywhere, any measurable good. Unless we want to to be "suckers," as state judges we must immediately incorporate the latest pro-plaintiff wealth redistribution theories applied in other states into West Virginia's decisional law. If we conceive and apply new wealth redistribution theories before anyone else, as the District of Columbia has in enacting D.C. Act 8–289, we can even garner for ourselves more than our fair share of the national product liability insurance pool. Every jurisdiction, then, must ultimately follow the most irresponsible state, or in this instance, the District of Columbia.

III

There is no question that the District of Columbia has a problem with violent crime, but the manufacture of firearms is legal everywhere in the United States under preemptive federal law. All West Virginians have a state constitutional right to own and carry firearms, yet West Virginia has the lowest crime rate in the United States. On the other hand, in the District of Columbia it is illegal to import or own a handgun not used for law enforcement purposes. Consequently, it is difficult to see how any firearms manufacturer could have "minimum contacts" with the District except through selling to law enforcement agencies.

Under D.C. Act 8–289, a Connecticut manufacturer who legally produces a gun proscribed by D.C. Act 8–289 and then legally sells it to a West Virginia resident (from whom, perhaps, it is illegally stolen) will be strictly liable for injury done with that weapon in the District. Although an argument can be made that this spreads the risks of inevitable injuries from misused firearms, it makes a mockery of strict liability concepts because this is not a hazard against which manufacturers can insure, nor does the scheme collect the product liability "insurance premium" in the form of higher prices from the same class that either (1) commits the tort, or (2) suffers the injury. Manufacturers will either beat the "minimum contacts" requirement by never setting foot in the District, or go out of business.

No court in Connecticut, therefore, would willingly acquiesce in putting a local firearms manufacturer out of business by enforcing judgments rendered against Connecticut employers in the courts of the Dis-

trict. Given that under D.C. law a gun manufacturer is prohibited from doing business in the District (except when selling to law enforcement agencies), a state court asked to enforce a D.C. judgment against one of its own residents would be surpassingly reluctant to find the "minimum contacts" necessary to justify long arm jurisdiction. In other words, strict liability for manufacturers of certain firearms places an insupportable burden on principles of comity among state courts and stretches the full faith and credit clause to the breaking point.

For that reason, lawsuits filed under D.C. Act 8-289 will invite the U.S. Supreme Court to revisit its holdings on what "minimum contacts" are necessary to justify long arm jurisdiction when a litigant seeks to compel enforcement of a foreign judgment through the U.S. Constitution's full faith and credit clause.

Consequently, it appears to me that if D.C. Act 8-289 is allowed by Congress to stand and is then upheld against constitutional challenge by the courts of the District and the Supreme Court of the United States, we will have recognized finally the Alice in Wonderland nature of America's product liability system. I would predict that after weapons manufacturers, the next target for tort law shutdown will be cigarette manufacturers. After the cigarette manufacturers, states like Idaho and Louisiana may decide to establish strict liability for manufacturers and distributors of specialized medical equipment used in performing abortions. From there the health fascists can make a stab at imposing strict liability on the distributors of red meat.

And at that point the White Rabbit, perhaps in the form of Congress, will come by, look at his watch, and announce that the story is over.

Thank you, Mr. Chairman.

RICHARD NEELY,
West Virginia Supreme Court of Appeals.

CURRICULUM VITAE

Education: A.B. Economics, Dartmouth College, 1964 LL.B. Yale Law School, 1967.

Military: Captain, U.S. Army Artillery, 1967-69. Served on the personal staff of John Paul Vann in Republic of Vietnam, 1968-69; author of the economic development portion of the 1969 pacification plan. Awarded Bronze Star.

Business and professional: Practiced law alone in Fairmont, W. Va., 1969-73. Chairman of the Board of Kane & Keyser Hardware Corp., Belington, W. Va., 1970-1988. General Partner in Forest Festival Terrace, a West Virginia real estate holding company.

Government: Elected to the West Virginia House of Delegates for the 1971-73 term from Marion County. Elected state-wide to the West Virginia Supreme Court of Appeals in 1972 for a twelve-year term. Reelected to a full term in 1984. Chief Justice of the West Virginia Supreme Court of Appeals, 1980-81, 1985-86, 1990-91. This is West Virginia's highest court with administrative responsibility for all lower courts.

Major publications: "How Courts Govern America," Yale University Press (New Haven and London, 1981); "Why Courts Don't Work," McGraw-Hill (New York, 1983); "The Divorce Decision," McGraw-Hill (New York, 1984); "Judicial Jeopardy: When Business Collides With the Courts" (Addision-Wesley, 1986); "The Product Liability Mess," The Free Press (New York, 1988); "Take Back Your Neighborhood: A Case for Modern-day 'Vigilantism,'" Donald I. Fine, Inc. (New York, 1990); "The Politics of Crime," The Atlantic Monthly, (cover story) August 1982, pp. 27-31; "The Primary Caretaker Parent Rule: Child Custody and the Dynamics of Greed," 3 Yale Law and Policy Review, p. 168, (1985); "Why Wage-Price Guidelines Failed: A General Theory of the Second Best Approach to Inflation Control." 79 W. Va. Law Review 1, (1976).

Academic: Professor Economics, University of Charleston, Charleston, West Virginia, 1979-90; Frederick William Atherton Lecturer, Harvard University, 1982-83; Visiting Professor of Law, Fudan University, Shanghai, People's Republic of China, 1984.

Mr. President, this brings us to the final principal problem with the D.C. law. It is unconstitutional, pure and simple. It is an effort by a local jurisdiction to bring a halt to interstate commerce in a particular commodity.

Let there be no mistake about the objective of this legislation. It is not to regulate guns. The objective is to eliminate the manufacture and distribution of an entire class of guns, and ultimately of all classes of guns. D.C. Councilman William Lightfoot admitted this when he said:

"It would seem that the merchants of death—and that's what they are, they are merchants of death, the people that manufacture these guns, distribute these guns and sell these guns are merchants of death. * * * It is time they no longer earned money and income from sales of these weapons. We cannot allow them to roam free in our society."

Honest, hard-working manufacturers and distributors, men and women across this country who produce weapons, are now merchants of death because somebody misuses that weapon and commits a crime. Has it really come to that, Mr. President?

Fortunately, neither the Constitution's commerce clause nor D.C.'s home rule charter permit the District of Columbia to regulate commerce between the States. As recently as last January, the Supreme Court reiterated this reading of the commerce clause in its decision Wyoming versus Oklahoma.

Now, Mr. President, I understand that there are many who are concerned about the rights of the District of Columbia under the Home Rule Act, and I share this concern. Traditionally, however, the committees of jurisdiction have applied a three-fold test which has allowed them to overturn a D.C. enactment if that enactment were, first, unconstitutional; second, a violation of the D.C. home rule charter; or third, an impingement on a Federal interest.

Mr. President, the D.C. gun liability law is an unconstitutional violation of the commerce clause. It violates the D.C. home rule charter which limits the District's jurisdiction to legislation dealing with the District's jurisdiction to legislation dealing with the District's own affairs. This goes far beyond the District's own affairs. It interferes with Virginia. It interferes with New Hampshire, with Georgia, with South Carolina. It interferes with every State in the Union by telling a manufacturer he cannot manufacture or distribute a gun. Finally, it impinges on a Federal interest because it threatens to cut off the supply of weapons to Federal law enforcement agencies.

Mr. President, this proposal is identical to my legislation in the 102nd Congress which withstood a procedural point of order by a 50 to 32 vote, and then passed the Senate by unanimous consent. Last year, it had 38 sponsors and cosponsors, and I have no doubt that we will improve on that number in the weeks ahead.

The District does have a serious crime problem. We all know that. But serious problems, however severe, do not justify unconstitutional and counterproductive legislation.

The crime problems in the District of Columbia should be dealt with by punishing criminals, not law-abiding gunowners, manufacturers, and distributors.●

By Mr. PACKWOOD (for himself, Mr. GORTON, Mr. CRAIG, Mr. STEVENS, and Mr. SIMPSON):

S. 459. A bill to arrest the decline in, and promote the restoration of, the health of forest ecosystems on Federal lands, to reduce the escalating risk to human safety posed by potentially catastrophic wildfires on Federal lands, to require the Secretary of the Interior to establish a special fund for Bureau of Land Management activities in furtherance of forest health, and for other purposes; to the Committee on Energy and Natural Resources.

THE FEDERAL FORESTS HEALTH RECOVERY ACT OF 1993

● Mr. PACKWOOD. Mr. President, the bill I am introducing today, along with Senators GORTON, CRAIG, STEVENS, and SIMPSON, addresses a significant and worsening problem in eastern Oregon and Washington. That problem is the deteriorating health of our forests.

Oregon and Washington are experiencing devastating deterioration in forest health due to drought, insect infestation, and disease.

While prevalent in Oregon and Washington, these diseased and dying forests are not confined to just those States.

They are becoming a part of the landscape in several other western States and, increasingly, nationwide.

The health of our forests is a matter which should concern us all in terms of how we leave our forests for future generations.

My bill will allow us to go in and do something about forest health, to restore those ecosystems being lost to bug infestation and disease.

This measure, however, does not address the agony associated with the long-standing conflict over old growth forests and timber harvest levels.

I have elected not to address these issues in this proposal because the Clinton administration has committed to an early forest summit. The summit will address that conflict and related issues.

I commend the President in calling this summit and look forward to working with the administration toward an equitable solution.

Other Members of the Pacific Northwest delegation and other Members of Congress have pledged to forebear from introducing proposals dealing with the spotted owl conflict until the forest summit takes place.

I will join them in this decision because I believe that it is fair and proper to give the new administration an op-

portunity to work with us to resolve this conflict through the upcoming forest summit.

Mr. President, the legislation I am introducing today seeks to arrest the escalating deterioration in the health of our forests. These forests, as I've said, are suffering from the effects of drought, insect infestation, disease, and wildfire.

Last year, I introduced similar legislation on which the Senate Energy Committee held one hearing.

Unfortunately, action on that legislation was not completed prior to adjournment.

The problem of deteriorating forests is, however, no less acute 1 year later, and, in fact, our forests are dying at an unprecedented rate.

The problem of declining forest health is particularly evident in my home State of Oregon.

East of the Cascade Range—especially in the Blue Mountains region—there are millions of acres of trees which are dead or dying.

In fact, the Forest Service estimates that up to 70 percent of the total acreage of the 3 National Forests in northeast Oregon contain predominantly dead or dying trees.

The Pacific Northwest is in a crisis situation. The amount of timber reaching Oregon's mills has hit a critical low.

Since the listing of the northern spotted owl, thousands of jobs have been lost, and many more layoffs are expected.

The amount of timber lost annually to insects and disease in Oregon's public and private forests is equal to about 1.6 billion board feet. That is enough timber to build about 150,000 homes.

We cannot afford to ignore this potential.

Timely salvage of this timber can offer relief to Oregon's timber communities.

Mr. President, my bill authorizes and encourages the Forest Service and the BLM to respond more expeditiously than existing law and practice permit to arrest the escalating deterioration in the health of our forests.

Proper and timely management initiatives will reduce the spread of insects and the potential for catastrophic fire.

At the same time, proper management will accelerate the process of regeneration.

And, finally, timely salvage allows us to capture as much of the value which is still in the timber as possible.

While salvage by itself will not solve the forest health problem, it is clearly the right first step.

Mr. President, this bill represents sound forest management practice.

Some people believe that forests are static ecosystems, that if we simply leave them alone, they will remain forever as they are today. Unfortunately, forests just do not work that way.

Forests are dynamic, not static, and without management, we have seen how they die when there are pest infestations. We see how they can burn when there is a drought.

We, therefore, simply can no longer stand by while the health of our forests deteriorates. It's time to put the health of our forests back on track.

Mr. President, I ask unanimous consent that the text and section-by-section description of my bill be placed in the CONGRESSIONAL RECORD immediately following my remarks, along with a recent resolution passed by the Oregon House of Representatives recognizing the urgency of the situation.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 459

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Forests Health Recovery Act of 1993".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the forests on substantial areas of Federal lands are dead or are dying at an unprecedented rate from drought, insect infestation, disease, fire, and other causes;

(2) this alarming decline in forest health—

(A) threatens entire ecosystems with collapse or destruction and endangers human life, property, and communities with catastrophic wildfires; and

(B) will inflict substantial economic losses on Federal, State, and local governments and individuals because of the reduction in shared receipts obtained from, and the revenue, income, and employment generated by, Federal timber sales;

(3) careful management of these dead and dying forests through thinning, salvage, timber stand improvement, reforestation, fuels management, insect and disease control, and other forest health recovery activities can—

(A) forestall or minimize the economic losses;

(B) reduce the threat to human life, property, and communities; and

(C) hasten the recovery of forest ecosystems; and

(4) to effect the management described in paragraph (3)—

(A) the Bureau of Land Management and Forest Service must be authorized to respond more expeditiously and fully, than is permitted by law in effect on the date of enactment of this Act, on Federal lands where forest health problems exist; and

(B) the Bureau of Land Management must be accorded authority comparable to that provided by Federal law to the Forest Service to expend receipts from the sales of salvaged timber and other forest products for the purpose of restoring and maintaining forest health.

(b) PURPOSES.—The purposes of this Act are to encourage, and provide authority for, management initiatives on Federal lands to—

(1) arrest the escalating deterioration in the health of forests and forest ecosystems, and the attendant injury to and destruction of wildlife, watershed, soil, recreational, economic, and other resources and values, that result from natural resource disasters, including catastrophic wildfires, drought, insect infestation, disease, and other natural and human-caused events;

(2) minimize the threat to human life, property, and communities from catastrophic wildfires that may originate in the dead and dying forests;

(3) reduce the economic losses that are and will be inflicted on all levels of government, communities, and individuals by the loss of forest health; and

(4) achieve the long-term restoration and maintenance of the health of the forests and forest ecosystems.

SEC. 3. DEFINITIONS.

Except as otherwise expressly provided, as used in this Act:

(1) FEDERAL LANDS.—The term "Federal lands" means—

(A) public lands (as defined in section 103(e) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702(e))); and

(B) lands included in the National Forest System (as defined in section 11(a) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1609(a))).

(2) FOREST HEALTH ACTIVITY.—The term "forest health activity" means any thinning, salvage, timber stand improvement, reforestation, controlled burning or other fuels management, insect or disease control, riparian or other habitat improvement, soil stabilization or other water quality improvement, or other activity, the purpose of which is to meet one or more of the objectives described in section 4(a).

(3) LAND MANAGEMENT PLAN.—The term "land management plan" means—

(A) a land use plan prepared by the Bureau of Land Management pursuant to section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712), or other plan currently in effect, for a unit of the Federal lands described in paragraph (1)(A); or

(B) a land and resource management plan (or if no final plan is currently in effect, a draft land and resource management plan) prepared by the Forest Service pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604) for a unit of the Federal lands described in paragraph (1)(B).

(4) SECRETARY.—The term "Secretary" means—

(A) with respect to Federal lands described in paragraph (1)(A), the Secretary of the Interior, or a designee; and

(B) with respect to Federal lands described in paragraph (1)(B), the Secretary of Agriculture, or a designee.

SEC. 4. FOREST HEALTH ACTIVITIES.

(a) IN GENERAL.—Subject to section 8, the Secretary shall prepare for and undertake or authorize forest health activities, individually or in combination, as the Secretary considers necessary to—

(1) arrest the deterioration in the health of forests and forest ecosystems on Federal lands;

(2) restore and maintain the health of the forests and forest ecosystems that have suffered or are suffering deteriorated health conditions; or

(3) ensure the public safety that is threatened by the deteriorating health of the forests and forest ecosystems.

(b) CONSIDERATIONS.—In determining and preparing for the necessary forest health activity, or combination of the activities, for any Federal lands, the Secretary shall consider the significance and conditions of all relevant forest resources and values, including timber, recreation, wildlife, watershed, and soil, on the lands, and the economic well-being of individuals and communities economically dependent on the lands.

(c) ROLE OF SALES.—

(1) IN GENERAL.—The Secretary may offer and award a timber sale as a forest health activity pursuant to this Act if the sale meets one or more of the objectives described in subsection (a).

(2) EFFECT OF COSTS.—No sale shall be precluded because the anticipated total costs of the sale are greater than the anticipated revenues from the sale.

(3) HARVEST OF LIVE TREES.—Whenever the harvest of live trees is likely to occur in carrying out a forest health activity, the Secretary shall provide to the public a detailed statement of the determination of the Secretary that the activity meets one or more of the objectives described in subsection (a).

SEC. 5. FUNDING OF FOREST HEALTH ACTIVITIES.

(a) FUNDING OF BUREAU OF LAND MANAGEMENT ACTIVITIES.—

(1) ESTABLISHMENT OF FUND.—There is established in the Treasury of the United States a special fund (referred to in this subsection as the "fund") to be used in accordance with paragraph (3), consisting of—

(A) such amounts as are appropriated to the fund under paragraph (2); and

(B) any interest earned on investment of amounts in the fund under paragraph (4).

(2) TRANSFERS TO FUND.—There are appropriated to the fund amounts equivalent to the Federal shares of moneys received from the disposal of salvage forest products and timber from Federal lands described in section 3(1)(A) pursuant to—

(A) the Act entitled "An Act relating to the revested Oregon and California Railroad and reconveyed Coos Bay Wagon Road grant lands situated in the State of Oregon", approved August 28, 1937 (43 U.S.C. 1181a et seq.);

(B) the Act entitled "An Act relating to the disposition of funds derived from the Coos Bay Wagon Road grant lands", approved May 24, 1939 (43 U.S.C. 1181f-1 et seq.);

(C) the Act entitled "An Act to provide for the disposal of materials on the public lands of the United States", approved July 31, 1947 (30 U.S.C. 601) (commonly known as the "Materials Act of 1947"); and

(D) this Act.

(3) EXPENDITURES FROM FUND.—Upon request by the Secretary of the Interior, the Secretary of the Treasury shall transfer from the fund to the Secretary of the Interior such sums as the Secretary of the Interior determines are necessary to carry out, on the Federal lands described in section 3(1)(A)—

(A) the forest health activities—

(i) authorized pursuant to section 4; or

(ii) described in section 3(2) and authorized under any other provision of law;

(B) activities to maintain healthy forests and forest ecosystems, including—

(i) controlled burning;

(ii) site preparation;

(iii) tree planting;

(iv) protection of seedlings from animal and other environmental elements;

(v) release from competing vegetation; and

(vi) precommercial thinning;

(C) activities to maintain or enhance the health of other ecosystems, including range and nonforested watershed improvement activities;

(D) the planning and preparation of salvage timber for disposal;

(E) the administration of timber sales pursuant to this Act or other applicable law; and

(F) subsequent site preparation, reforestation, and forest development activities required on rehabilitated sites.

(4) INVESTMENT OF FUNDS.—

(A) IN GENERAL.—The Secretary of the Treasury shall invest such portion of the fund as is not, in the judgment of the Secretary, required to meet current withdrawals. Investments may be made only in interest-bearing obligations of the United States.

(B) ACQUISITION OF OBLIGATIONS.—For the purpose of investments, obligations may be acquired—

(i) on original issue at the issue price; or

(ii) by purchase of outstanding obligations at the market price.

(C) SALE OF OBLIGATIONS.—Any obligation acquired by the fund may be sold by the Secretary of the Treasury at the market price.

(D) CREDITS TO FUND.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the fund shall be credited to and form a part of the fund.

(5) TRANSFERS OF AMOUNTS.—

(A) IN GENERAL.—The amounts required to be transferred to the fund under this subsection shall be transferred at least monthly from the general fund of the Treasury to the fund on the basis of estimates made by the Secretary of the Treasury.

(B) ADJUSTMENTS.—Proper adjustment shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

(b) FUNDING OF FOREST SERVICE ACTIVITIES.—From the salvage sale fund authorized by section 14(h) of the National Forest Management Act of 1976 (16 U.S.C. 472a(h)) and the fund established under section 3 of the Act entitled "An Act authorizing the Secretary of Agriculture to enlarge tree-planting operations on national forests, and for other purposes", approved June 9, 1930 (16 U.S.C. 576b) (commonly known as the "Knutson-Vandenberg Act"), the Secretary of Agriculture may use, without further appropriation, such sums as are necessary to carry out on the Federal lands described in section 3(1)(B)—

(1) the forest health activities—

(A) authorized pursuant to section 4; or

(B) described in section 3(2) and authorized under any other provision of law; and

(2) activities to maintain or enhance the health of other ecosystems, including range and nonforested watershed improvement activities.

SEC. 6. ANALYSIS OF FOREST HEALTH ACTIVITIES.

(a) IN GENERAL.—A forest health activity that is not inconsistent with the long-term management goals and objectives of a land management plan for the unit of Federal lands on which the activity is to occur shall be deemed not to be a major Federal action significantly affecting the quality of the human environment for the purpose of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

(b) EXCLUSIONS FOR CERTAIN ACTIVITIES.—The Secretary shall establish, by regulation, categorical exclusions from the requirements established pursuant to such section 102 for certain types of salvage and other forest health activities, based on the extent to which the activity includes selective thinning, no building of new roads, minimum loss of healthy standing timber, and other justifying factors.

SEC. 7. REVIEW OF FOREST HEALTH ACTIVITIES.

(a) IN GENERAL.—Unless the Secretary specifically provides for administrative review, a citizen of the United States may seek immediate judicial review of any decision of the Secretary to carry out a forest health activity pursuant to section 4.

(b) STANDING FOR ADMINISTRATIVE REVIEW.—If the Secretary provides an opportunity for administrative review of a forest health activity and an opportunity for public comment during the preparation or consideration of an activity described in subsection (a), standing to bring an administrative appeal of such an activity shall be available only to persons who have submitted timely comment on the activity.

(c) DISTRICT COURT REVIEW.—

(1) VENUE.—Judicial review of a forest health activity authorized pursuant to section 4 shall take place only in the district court of the United States for the district in which the Federal lands subject to the forest health activity are located.

(2) DEADLINE FOR FILING.—An action brought pursuant to this subsection shall be filed not later than 30 days after the date of publication of the final decision of the Secretary to carry out the forest health activity.

(3) DEADLINE FOR DECISION.—In an action brought pursuant to this subsection, a district court shall render a final decision and dissolve any restraining order or preliminary injunction not later than 60 days after the date of the filing of the action.

(d) APPEALS.—

(1) DEADLINE FOR FILING.—Any appeal from the final decision of a district court in an action brought pursuant to subsection (c) shall be filed not later than 30 days after the date of the decision.

(2) DEADLINE FOR DECISION.—The court of appeals shall render a final decision on the appeal and dissolve any injunction pending appeal not later than 90 days after the date of the filing of the appeal.

SEC. 8. EXCLUDED LANDS.

The Secretary may not prepare, undertake, or authorize any forest health activity pursuant to section 4 on any Federal lands located within—

(1)(A) any unit of the National Wilderness Preservation System;

(B) any other area formally withdrawn from timber harvesting by law;

(C) any roadless area designated by Congress for wilderness study; or

(D) any roadless area recommended by the Bureau of Land Management or Forest Service for wilderness designation; or

(2) any other area in which timber harvesting is expressly prohibited by an applicable land management plan, unless the plan is amended to permit the activity to occur in accordance with section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712) or section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604).

SEC. 9. BUDGET DISCLOSURES.

Beginning with the fiscal budget for the first full fiscal year following the date of enactment of this Act, requests presented by the President to Congress governing activities of the Bureau of Land Management or the Forest Service shall express in qualitative and quantitative terms the extent to which the projected activities under the budget fully achieve the policies and purposes, and implement the provisions, of this Act.

SEC. 10. ADVISORY BOARDS.

(a) APPOINTMENT.—

(1) IN GENERAL.—The relevant Secretary shall appoint an advisory board (referred to in this section as an "advisory board") for each Bureau of Land Management district and national forest in Oregon and Washington located in whole or in part east of the Cascade Range on which forest health activi-

ties are likely to be undertaken. The relevant Secretary is hereby authorized at his discretion to appoint an advisory board pursuant to this section for other Bureau of Land Management districts and national forests on which forest health activities are likely to be undertaken.

(2) COMPOSITION.—An advisory board shall be comprised of not more than 7 individuals who, in the judgment of the Secretary, represent a diversity of views.

(3) COMPENSATION.—A member of an advisory board shall serve without compensation or reimbursement for expenses.

(b) DUTIES.—An advisory board shall advise relevant Federal land managers on general forest health matters in the context of the respective planning efforts of the Bureau of Land Management and the Forest Service. In addition, an advisory board may—

(1) review proposed forest health activities of the affected unit of Federal land individually or in combination; and

(2) present recommendations to the Bureau of Land Management or Forest Service—

(A) in the case of any forest health activity determined by the Secretary to constitute an emergency, within 15 days after receipt of documents pertinent to the review; and

(B) in the case of any other forest health activity, within 45 days after receipt of documents pertinent to the review.

(c) The advisory boards shall be named not later than sixty days after enactment of this Act. The advisory boards established under this section shall not be subject to the Federal Advisory Committee Act (86 Stat. 770).

SEC. 11. MONITORING AND ANNUAL FOREST HEALTH REPORTS.

The Secretary shall annually—

(1) monitor each forest health activity authorized pursuant to section 4 on the Federal lands under the jurisdiction of the Secretary; and

(2) report to Congress on—

(A) the timeliness, effectiveness, and cost of each such activity; and

(B) the condition of and trend in health of the forest and forest ecosystem in each unit of the Federal lands under the jurisdiction of the Secretary.

SECTION-BY-SECTION DESCRIPTION

Section 1. Short Title.—This section provides the bill's short title: "Federal Forests Health Recovery Act of 1993."

Section 2. Findings and Purposes.—Subsection (a) contains the Congressional findings which support the need for the legislation. These findings recognize the dramatic decline in the health of much of the Federal forested land due to the lengthy drought in portions of the West, insect infestation, disease, and other natural and human causes. The findings also disclose the severe environmental (damaging or destroying ecosystems), economic (reduced revenues for Federal, State, and local governments and loss of employment in occupations dependent on forest products), and public safety (severe risk of uncontrollable wildfire) consequences of deteriorating forest health. Finally, the findings recognize that these adverse consequences can be forestalled or minimized, and forest health can be restored, with more aggressive and timely management actions of the Bureau of Land Management, Department of the Interior, and Forest Service, Department of Agriculture, funded by an existing special fund for the latter agency and a newly created special fund for the former.

Subsection (b) states the purposes of the Act. The short-term purposes are to arrest, and to minimize or eliminate the adverse consequences of, deteriorating forest health on the Federal lands. Restoration and maintenance of the forest health are the long-term purposes.

Section 3. Definitions.—This section provides definitions for the most frequently used terms in the legislation. "Federal lands" are defined as public lands administered by the Bureau of Land Management and National Forest System lands administered by the Forest Service. "Forest health activity" is defined expansively to include not only traditional activities undertaken to combat forest health problems (*e.g.*, salvage sales, timber stand improvement activities, reforestation) but also a much broader range of activities to protect and restore all the resources and values of the affected forests and forest ecosystems (*e.g.*, riparian and habitat improvement activities, water quality improvement projects). "Land management plan" is defined to mean the basic land use plans prepared by the Bureau of Land Management and Forest Service under their primary land management statutes: the Federal Land Policy and Management Act of 1976 and Forest and Rangeland Renewable Resources Planning Act of 1974. Finally, "Secretary" is defined as the Secretary of the Interior whenever the Federal lands concerned are managed by the Bureau of Land Management and the Secretary of Agriculture whenever the Federal lands concerned are managed by the Forest Service.

Section 4. Forest Health Activities.—Subsection (a) provides the basic authority to both Secretaries to undertake forest health activities as defined in section 3 of all Federal lands except those identified in section 8. In order to undertake a forest health activity, the Secretary must find that it is necessary to achieve one or more of three goals: (i) arrest forest health deterioration; (ii) restore and maintain forest health, and/or (iii) ensure the public safety.

Subsection (b) advises the Secretary to consider two elements in choosing which forest health activities to undertake: (i) the significance and conditions of all relevant resources and values in the affected forest; and (ii) the economic well-being of individuals and communities economically dependent on that forest. The first element is obvious—any forest health activity chosen without knowledge of site-specific conditions is likely to be ineffective. The second element is of equal importance, however, because the undertaking of appropriate forest health activities can have significant short-term and long-term benefits to communities and workers suffering from the loss of income and employment from such forests.

Subsection (c) embodies the recognition that salvage sales, when properly designed, can continue to be a critically important management activity in combating forest health problems. The subsection, however, makes clear that salvage sales under this bill are not to be simply renamed components of the usual timber sale programs. The Secretary must determine that each sale meets one or more of the objectives in subsection (a) and, if the sale includes any green trees, must provide a detailed statement to the public of that determination. Since any such salvage sale that meets these requirements has as its overriding purpose forest health, and not commercial, objectives, the subsection also provides that the sale shall not be precluded simply because it is found to be "below cost" (*i.e.*, its anticipated costs are greater than its anticipated revenues).

Section 5. Funding of Forest Health Activities.—Subsection (b) clarifies that monies in the existing Forest Service salvage sale fund authorized by the National Forest Management Act of 1976 and the 1930 Knutsen-Vanderburg Act can be used for forest health activities authorized under this legislation or any other law, and for maintaining or enhancing the health of other, non-forested ecosystems.

Subsection (a) establishes a similar special fund for the Bureau of Land Management (to make permanent the temporary fund established in the Fiscal Year 1993 Interior and Related Agencies Appropriation Act). The subsection names federal revenues raised under this legislation and three other statutes governing Bureau of Land Management activities as the source of the fund. It permits expenditures from the fund for both the same types of activities previously supported from, and the same new types of activities which subsection (b) identifies for, the Forest Service's fund. Finally, the subsection provides direction for managing the fund, including investments, interest, and transfers to the fund.

Section 6. Analysis of Forest Health Activities.—This section balances the need to act quickly where forest health is concerned (to eliminate the threat of wildfire or the spread of pests or disease and, where appropriate, to obtain revenues to support forest health activities by permitting salvage of dead or dying timber before decay destroys its merchantability) and to ensure that the actions taken do not have unintended adverse environmental effects. Subsection (a) clarifies that whenever a forest health activity is found to not be inconsistent with the long-term management goals and objectives of a Bureau of Land Management or Forest Service land management plan, the agency can comply with the National Environmental Policy Act (NEPA) by preparing the more expeditious environmental assessment (EA) instead of the more time consuming environmental impact statement (EIS). The EA will simply supplement the comprehensive EIS which will have already been prepared on the land management plan. Of course, if the forest health activity is found to be inconsistent with the plan's long-term management goals and objectives, then the plan would have to be amended before the activity could be undertaken, and, if the plan amendment is deemed significant, a full-fledged EIS would have to be prepared.

The regulations of the Council on Environmental Quality which govern implementation of NEPA allow federal agencies to exempt ("categorically exclude") from NEPA documentation requirements certain activities which have minimal effect on the environment. Subsection (b) requires each Secretary to develop by rule a categorical exclusion policy for forest health activities which have such minimal effect (considering the extent to which the activity includes selective thinning, no roadbuilding, minimum loss of green trees, and other factors).

Section 7. Review of Forest Health Activities.—This section also provides for expeditious implementation of forest health activities. It assures, however, that any interested individual who believes a decision to undertake a forest health activity is erroneous has the opportunity to challenge it. Particularly, the section assures access to the courts to obtain independent review of agency decisionmaking.

Subsection (a) provides that the Secretary can continue to exempt specific, time-sensitive forest health activities from the agency's administrative appeal process. Existing rules already permit this and this language

is intended to clarify that nothing in this legislation is intended to alter that policy. The provision also clarifies that, if no administrative appeal is provided, any interested person may seek immediate judicial relief. If the opportunity for administrative appeal is provided, an interested party must have commented to the agency during the preparation of, or decision on, the forest health activity in order to bring the appeal. This requirement ensures that potential appellants disclose any errors they perceive in the agency's process while the agency can still correct them without unnecessary delays. It will discourage those opposed to particular forest health activities from adopting a tactic of withholding comment until the decision on an activity is final to improve their chances of successfully delaying and blocking the activity in subsequent appeals.

Subsections (b) and (c) guide the judicial appeals of forest health activities. Subsection (b) requires that the litigation be brought in the U.S. District Court in whose district the activity would take place. It also sets deadlines for bringing and disposing of the litigation. The plaintiff must file the lawsuit within 30 days of the final decision on the forest health activity; the court then has 60 days to render a final decision in the lawsuit. Subsection (c) provides similar deadlines for filing (30 days) and disposing (90 days) of any appeal of the district court decision.

Section 8. Excluded Lands.—This section recognizes that certain lands which have been designated by Congress or the agencies as having special environmental values should not be subject to the forest health activities and expedited procedures authorized by this legislation. These areas include wilderness areas designated by statute (units of the National Wilderness Preservation System), other areas in which timber harvesting has been prohibited by Congress; roadless areas which Congress has directed in statute to be studied for possible wilderness designation; roadless areas which the Forest Service or Bureau of Land Management have studied and recommended for wilderness designation; and areas in which the timber harvesting has been expressly prohibited by the applicable land management plans of the two agencies (unless and until the plans are amended to permit timber harvesting).

Section 9. Budget Disclosures.—This section and section 11 requires two reports which are intended to maintain forest health as a high priority for the Bureau of Land Management and Forest Service and to make those agencies accountable for implementing this bill effectively. Section 9 requires that the Executive Branch report to the Congress in its annual budget submission (presumably in a budget Appendix) whether the budgeting figures are sufficient to fully implement the bill. This provision is similar to section 8(b) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (which requires similar reporting on how the budget addresses the long-term policies developed under the periodic agency-wide planning mandated by that Act).

Section 10. Advisory Boards.—To avoid any adverse consequences arising from the expedited decisionmaking and appeal procedures in this legislation, it is desirable to have as much meaningful public review and guidance as possible early in the process. Section 10 provides a special mechanism for obtaining such review and guidance. It requires the two Secretaries to appoint advisory boards for units of Federal lands within their jurisdiction which are likely to require forest health activities. The boards are to have a membership of not more than 7 individuals who represent a diversity of views. Each board's mission is to review, and make recommendations to the Bureau of Land Management or Forest Service on, each forest health activity proposed for its unit. The normal period for review would be 45 days, although the agency can require a 15 day review for any forest health activity which is intended to address emergency conditions.

HOUSE JOINT MEMORIAL 8

Whereas the National Forest System has historically provided 80 percent of Oregon's timber supply needs, economic support for regional and local economics and funds for county government and Oregon schools; and

Whereas timber receipts from the Federal Government in 1989 accounted for nearly $300 million and have totaled $1.8 billion over the past decade, benefiting the public by delivering government services to people at the county level; and

Whereas the land allocation decisions made in recent federal forest plans have reduced the amount of land available for forest management to less than 40 percent on the land managed by the Federal Government; and

Whereas both the United States Forest Service and Bureau of Land Management recognize there are opportunities to salvage some of the forest stand mortality presently occurring, and increasing, due to drought conditions, insect outbreaks and disease infestations throughout the State of Oregon; and

Whereas, because salvaging forest stand mortality historically has been a byproduct of active forest stand management, it should be elevated to equal status with normal green timber harvesting operations to help provide a stable timber supply, to promote vigorous health forests, to use dead and dying wood in a timely manner, to protect adjacent healthy forests from disease, insects and catastrophic fire exposure and to expedite rehabilitation of other resource values; and

Whereas the State Forestry Department of Oregon has identified that 1.6 billion board feet of timber are lost annually to insects and disease in Oregon's public and private forestland; and

Whereas, because biological concepts such as maintaining biological diversity, recruiting wildlife trees and leaving large woody material may be in direct conflict with salvaging, any public policy that promotes forest salvaging should strive to reduce such conflicts by leaving a reasonable level of such materials for the health of the forest, yet be consistent with safe logging operations; and

Whereas sound forest management and prudent public policy should prevent the waste of usable wood by salvaging such forest stands in a timely manner and also promote the conservation of other forest resources: Now, therefore, be it

Resolved by the Legislative Assembly of the State of Oregon, That—

(1) The United States Forest Service and Bureau of Land Management are urged to adopt, as part of a sound forest conservation strategy, a comprehensive program to salvage usable wood that is dead or dying in the national forests of Oregon and the Northwest, recognizing that such a program:

(a) Will promote not only mortality salvage but forest sanitation and resource rehabilitation, resulting in enhanced forest and watershed growth, vigor and health; and

(b) Shall be compatible with existing state and federal land management plans that protect and conserve all forest values, including water quality, wildlife habitat, harvestable timber, natural beauty and recreation.

(2) A copy of this memorial shall be sent to the Chief of the United States Forest Service, to the Director of the Bureau of Land Management and to each member of the Oregon Congressional Delegation.

By Mr. BUMPERS (for himself, Mr. WARNER, Mr. SASSER, Mr. COHEN, and Mr. BRYAN):

S. 462. A bill to prohibit the expenditure of appropriated funds on the U.S. International Space Station *Freedom* Program; to the Committee on Appropriations.

S. 463. A bill to prohibit the expenditure of appropriated funds on the Superconducting Super Collider Program; to the Committee on Appropriations.

DEFICIT REDUCTION THROUGH SPACE STATION "FREEDOM" AND SUPERCONDUCTING SUPER COLLIDER TERMINATION ACTS OF 1993

Mr. WARNER. Mr. President, given the time constraints, I would now yield the floor to my distinguished colleague from Arkansas. We are jointly putting in the legislation. I will speak to my participation, but I am privileged to join with my good friend, the distinguished Senator, who pioneered these proposals in the Senate at an earlier time.

I approached him in the past few days as to the likelihood of his initiating this once again. I indicated I was willing to initiate it, but given that he was the originator of these same proposals some months ago, I think it is most appropriate that he initiate them and that I join him as a cosponsor.

I do so with an absolute clear conscience. It is not a political response on my part. It is a response to our President who has asked for further cuts.

But I have a clear conscience in that I went against President Bush on both of these issues and against my colleagues on this side at the time the initiatives were taken by my distinguished colleague from Arkansas.

Mr. President, I now yield the floor.

Mr. BUMPERS. Mr. President, I thank the Senator from Virginia very much.

I want to say I believe his chief cosponsorship, chief authorship of these two measures to deauthorize, effectively deauthorize through the appropriations process, both the space station and the super collider add great emphasis to the efforts that I have put in on this before.

I also want to say, Mr. President, with the utmost respect to the President, that I do not believe you can really be as serious about deficit reduction as you ought to be and leave a space station, which could conceivably cost us $200 billion over the next 25 to 30 years, on the table. It is difficult for me to believe you can be as serious as

you ought to be and leave the super collider, which is now up to, I would say a conservative estimate just for the construction, as much as $13 billion and which could conceivably cost $20 billion to $30 billion to build and operate over the next 20 to 30 years.

It would not be nearly so bad on the space station, except all 40,000 physicists in America who belong to the American Physical Society, with the exception of a very few who work on the space station, are adamantly opposed to it. It has no scientific, economic, social, or military redeeming value. None.

The Russians have had a space station in space for 5 years and divinely wish they had never done it and divinely wish it were on the ground.

I might add, we ought to do whatever experiments we are going to do on their space station. But do you know what the National Academy of Sciences says? Very few experiments are anticipated for the space station that cannot be carried out by unmanned space flights.

I might say one more thing about the space station. The cost is going completely out of control. Whoever dreamed it would cost us $40 billion just to build it and deploy it, to say nothing of operating it. Back in 1984 we were told it would be $8 billion for the R&D.

The super collider started off at $4 billion. Everything starts at $4 billion around here. It is now up to, I would say, $13 billion. And I will put figures to justify that in.

Mr. President, if you saw the Washington Post this morning, you saw where the cost overruns on the collider are totally out of control.

We can foresee now that what we thought was going to cost $1.3 billion is going to cost $625 million more than that. Foreign contributions—forget it. Taiwan even pulled out this past Tuesday—only $50 million they were in for, but they pulled out.

The $1.7 billion that we were anticipating in foreign contributions—forget it. When the President went to Japan last year, everybody thought, well, at least they will commit to their billion dollars on the super collider.

Do you know what they told President George Bush? "Don't call us, we'll call you."

So, Mr. President, why should we proceed with this when we know neither one of them has anything but a few jobs in a few States. Nothing else.

This morning I held a hearing in the Small Business Committee on what was called the microloan program; a small program. And do you know, with that small program, where you loan people anywhere from $500 to $25,000—all they have is a good idea, no collateral, no chance of a bank loan, but a good idea and a lot of energy and determination. Some of them to get off welfare, incidentally.

One of the intermediaries out in Iowa makes virtually all of their loans to people on AFDC, doing a dynamite job of taking people off of that program. The average cost of jobs in most of those programs is about $4,300 per job. And these are people who have nothing except some determination to make something of themselves.

The Economic Development Administration has a rule of thumb that they will give you a grant if you can provide jobs for as much as $5,000 per job. Do you want to know what these two projects cost per job—when you hear the people from Texas and Louisiana come in here and tell you how important this thing is about jobs—$80,000 to $100,000 per job; for nothing.

As I say, there is much more to it. There is much more detail I would like to put into it. But I cannot tell you how much I appreciate the participation of the Senator from Virginia this year.

At some point we will decide precisely when to present this to the Senate—in the appropriations process, probably. It could be as early as the budget resolution. But people around here have to be serious about deficit reduction. A lot of the things the President is asking for he will not get. And if we are going to keep faith with the people of the country and do $1 of spending cuts for every dollar in taxes, we have to do this. We have to do a whole host of things. But here are the two big ticket items that are on the table that ought to be taken off if we are really serious about deficit reduction.

Mr. President, I send both of these bills to the desk on behalf of the Senator from Virginia; the Senator from Tennessee, [Mr. SASSER]; and myself. We are the three authors of the bill.

Mr. WARNER. Mr. President, I approached my good friend to take this initiative some several days ago. It is not easy for him to stand once again on this floor and advocate these two cuts. It is not easy because he comes from the State of our President and this issue, now, by virtue of the action that the two of us take together, with the distinguished Senator from Tennessee, Mr. SASSER—this action we take directly thrusts onto his desk this issue. Because at some point in this deliberation, the President will pass on the wisdom of what the three of us are now passing on to the Senate—namely, if we are going to raise these taxes, and I for one am not in favor of raising taxes—but if we are even going to consider it, then we have to consider with equal seriousness, and hopefully beforehand, cuts.

These are two very, very major, sizable cuts. They will set back the momentum of this country in scientific technology. But that is a priority, that setback. We have to lay alongside the burden of our people of possibly assuming additional taxes; the burden of our people faced with an ever-growing annual deficit; and the burden of our people to service an ever-growing national debt.

The chair is occupied by my distinguished colleague from Virginia. He full well knows that our State will suffer if the Congress adopts these two cuts. There are many Virginians who have either a direct or indirect employment in both of these programs. But this is the type of courage that individual Members of this body, and indeed the Congress as a whole, must show if we are to begin to provide some support for the President in his leadership to lessen the fiscal responsibilities and the burden of debt.

So I thank my good friend from Arkansas. I thank our colleague from Tennessee. The three of us will be like Musketeers on this one. We will not gain many friends, but it is the type of tough decision that must be taken to make it work.

I understand, Mr. President, that our distinguished colleague, Mr. COHEN, wishes to be added as the fourth of what I hope will be a long list of cosponsors to these measures.

I ask unanimous consent that the Senator from Maine be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Maine will be added as an original cosponsor. The Senator from Arkansas [Mr. BUMPERS].

Mr. BUMPERS. Mr. President, I just would like to say we might have some history with this, having Four Musketeers instead of Three Musketeers. Nobody can accuse us of being partisan. It is a bipartisan effort of the Senators from Maine, Virginia, Tennessee, and myself.

Mr. President, I also state I have an executive summary of the GAO report, which was reported in the Post this morning. I have the whole report, but I ask unanimous consent the executive summary be printed in the RECORD immediately following my remarks.

There being no objection, the executive summary was ordered to be printed in the RECORD, as follows:

EXECUTIVE SUMMARY

PURPOSE

The Superconducting Super Collider (SSC) is intended to be the world's largest particle accelerator—a basic research total for seeking fundamental knowledge about matter and energy. In 1987, the Department of Energy (DOE) provided the Congress with an estimated total SSC project cost of $5.3 billion. Since January 1991, DOE has maintained that the SSC would be completed in 1999 at a total cost of $8.25 billion.

GAO was asked to determine whether DOE's cost and schedule assurances were based on a reliable and accurate assessment of the SSC's current and projected status. Specifically, GAO examined (1) whether the required Cost and Schedule Control System had been implemented, (2) whether the project has realized cost savings when com-

pared with the January 1991 baseline cost estimate, (3) whether cost and schedule changes could increase the project's total estimated cost, and (4) how DOE is implementing its "build-to-cost" strategy—a plan to reduce, defer, or eliminate components to hold construction costs to baseline cost estimates. GAO is also providing its observations on the status of SSC funding.

BACKGROUND

The SSC is being constructed about 30 miles south of Dallas, Texas. The accelerator complex, called the SSC Laboratory, is to consist of a series of five accelerators. The principle components of the accelerators are magnets that will steer and focus beams of protons, moving in opposite directions, until they collide, at nearly the speed of light. As proposed, the SSC will also include two large general-purpose detectors that will record the collisions for analysis by physicists.

The SSC project's prime contractor is Universities Research Association, Inc. (URA), a nonprofit corporation, which is to design, construct, and manage the SSC Laboratory. In managing the project, URA is contractually required to implement a Cost and Schedule Control System. When fully implemented, such a system shows tasks that are ahead of or behind schedule and/or under or over budget. Trends can be extrapolated from the data to produce a range of cost and schedule estimates at completion of the project or of major project segments. URA has awarded subcontracts for conventional construction and for the production and design of project equipment, such as superconducting magnets. Two collaborations of scientists have been selected to design, construct, assemble, and install the two large detectors.

DOE's 1991 baseline cost estimate of $8.25 billion for the SSC includes $2.6 billion in costs to be funded from nonfederal sources, including $1.6 billion in foreign contributions. However, it excludes some costs expected to be funded by sources other than the DOE appropriation for construction: about $500 million for the detectors, for which the SSC is seeking mainly nonfederal funding, and about $400 million for laboratory preoperations costs, which are to be funded from DOE's High Energy Physics Program.

RESULTS IN BRIEF

The prime contractor still has not implemented a fully functioning Cost and Schedule Control System for managing the project. URA initially gave low priority to implementing this system, and although progress is being made, a fully functioning system—with trend analysis showing the estimated cost and schedule for completing the project—will not be available until July 1993 or later.

It is unlikely that net savings have been realized. Although the prime contractor's accounts indicate that there have been savings, these accounts do not reflect complete, up-to-date records of project savings and cost increases. GAO found that known cost increases not reflected in the contractor's accounts would have offset the recognized savings.

Analyses of the major subcontractors' work in progress show that the SSC project is over budget and behind schedule. For example, trend analyses show that costs at completion for architect and engineering services and conventional construction will be $630 million over the baseline cost estimate of $1.25 billion. However, because DOE does not have a fully functioning Cost and Schedule Control System, it is not clear how much these increases will change the project's total cost and schedule.

To counter cost increases, DOE plans to follow a build-to-cost strategy. This strategy is intended to hold construction costs to baseline cost estimates by eliminating, reducing, or deferring some components, such as the detectors. Such actions would reduce the SSC's experimental capabilities and could adversely affect the experimental research. Furthermore, if such components are added later, the overall cost to the government may increase.

The SSC project has reached a crossroads at which key funding decisions need to be made. Currently, the SSC is over budget and behind schedule. Furthermore, DOE recently advised the Congress that it is confident of obtaining only about $400 million of the $1.7 billion that it is seeking from foreign contributors by 1999—leaving a shortfall of $1.3 billion. As a result, the Congress is now faced with the prospect of having to provide a substantial increase in funding to complete the project.

PRINCIPAL FINDINGS

Cost and schedule control system not yet implemented

Although contractually required to do so, URA has not yet fully implemented the Cost and Schedule Control System. While URA has made progress in implementation, its accounting system has misallocated expenses among its accounts. Without an accurate accounting system, the reports generated by the Cost and Schedule Control System are also inaccurate and cannot be relied upon for monitoring the project's status or progress. It may take several months to refine the system's operations to ensure reliable reporting. At best, the first trend analysis showing the estimated cost and schedule for completing the project will be available in July 1993.

Project savings doubtful

URA's accounting records show that the project had a net savings of $2.1 million as of October 1, 1992. However, GAO found that the accounting records were incomplete and all savings and cost increases had not been recorded. If known cost increases had been promptly recorded, URA's account showing a net savings would have had a deficit of $19.9 million.

Cost growth on work in progress

Major subcontractor's reports, including those for conventional construction and magnet development, have identified both cost overruns and schedule delays. DOE's analyses of the subcontractor's reports, done at GAO's request, showed that the conventional construction subcontractor was 19 percent behind schedule and 51 percent over the baseline cost. DOE's projection of this trend to completion showed that the subcontractor would be about $630 million over the $1.25 billion baseline estimate. Trend analyses of the performance by the two major magnet subcontractors predicted that their development contracts will have cost overruns of $53 million (25 percent) and $25 million (37 percent).

DOE following the build-to-cost strategy

To control cost, DOE and the SSC Laboratory have been using the build-to-cost strategy for constructing the two large detectors, which are being designed to cost a total of about $1.1 billion. The project's baseline cost estimate allows about $596 million for the two large detectors—leaving about $500 million to be funded from other sources. Although most of this additional funding has been expected to come from foreign countries, such funding has been slow to materialize. If the funding from other sources is not received, DOE is considering deleting or deferring the installation of some detector components. Some consideration is even being given to deferring construction of one of the two detectors. Installing these components after SSC construction is completed could increase the SSC's costs and require DOE to shut down the SSC for as long as 2 years.

Observations on SSC funding

With $1.6 billion invested in the SSC, the Congress faces a critical decision point on funding, especially in light of the uncertainty of foreign contributions. In a January 14, 1993, letter, the Secretary of Energy acknowledged that without a significant contribution from Japan, it is highly doubtful that the goal of $1.7 billion in foreign funding could be met. He also acknowledged that federal funding at a level less than requested has increased the cost of the project and extended its schedule. According to DOE, a 1-year slip in the project's schedule could increase the SSC's cost by about $400 million. To hold the cost increase to $50 million and the schedule slippage to 3 months, the Secretary stated that $1.2 billion in funding would be needed in fiscal year 1994. To ensure that the project is completed on schedule, independent on foreign contributions, the Secretary recommended that in fiscal year 1994 the Congress provide $5.5 billion, representing the full remaining federal funding required, to construct the SSC.

GAO notes that funding of at least the annual amount requested by DOE would be needed if the project is to stay within its current budget and schedule. However, as evidenced by the matters discussed in this report, even providing the full amount of funding requested will not ensure that the project is built within budget and on schedule.

AGENCY COMMENTS

GAO discussed the facts presented in this report with the DOE SSC Project Director and his staff. The SSC Project Director provided additional facts, such as an update of the implementation status of the Cost and Schedule Control System. GAO incorporated the additional information into this report. DOE also believed that current SSC performance trends are not reliable because the project is in its early stages and major contract modifications are being made to control future construction cost growth. As requested, GAO did not obtain written agency comments.

Mr. WARNER. Mr. President, as a follow on, we may make history but we will not make friends. It is a tough decision.

I refer Senators to the CONGRESSIONAL RECORD, September 9, 1992, when the Senator from Arkansas and others got up to present to the Senate the arguments at the time President Bush was President. The four of us have been consistent throughout on these issues. I think that removes any suspicion that this is a partisan, political venture that we are on now. We are simply responding to the call by our President for further cuts. Here they are, Mr. President, two very significant ones that can make a major contribution to the goals that he, and I think other Americans, wish to achieve—

namely, reducing the annual deficit and the national debt.

Mr. President, as we all know President Clinton has called upon each of us to recommend appropriate areas for cutting the Federal budget.

Today, I am responding to that challenge.

I am joining my colleagues in introducing legislation to eliminate funding for the Space Station Freedom Program, and the superconducting super collider. My actions are not driven by any partisan political motivation: I voted against President Bush on both the space station and the super conducting super collider in the previous Congress.

There is no doubt that both programs, have value and merit to the Nation, or that my own State of Virginia will be adversely affected by their cancellation. However, this is time when we must carefully prioritize the allocation of every single Federal dollar. The National Academy of Sciences has taken the position that the "Space Station Freedom at the present stage of design does not meet the basic research requirements of the two principal scientific disciplines for which it is intended, life science and microgravity research."

I am deeply concerned about our staggering national debt and I am prepared to accept responsibility for denying a benefit to my own State; I strongly urge my colleagues to support me in this endeavor.

Mr. President, I would also like to again acknowledge and commend the work done previously in this regard by my colleagues, as recorded in the CONGRESSIONAL RECORD edition for September 9, 1992.

Mr. BUMPERS. Mr. President, I ask unanimous consent those bills be printed in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 462

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Deficit Reduction Through Space Station Freedom Termination Act of 1993".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the Federal budget deficit has grown to such an extent that it poses a serious short-, medium-, and long-term threat to the health of the United States economy;

(2) the gross interest costs on the National debt now exceed defense expenditures in the Federal budget and are one of the fastest-growing components in the Federal budget;

(3) the American people are demanding serious and fundamental changes in the Federal Government's management of spending priorities and overall fiscal stewardship;

(4) Federal Government programs that are not absolutely necessary to the health and well-being of the American people must be closely scrutinized for possible funding reduction or elimination;

(5) many experts in the scientific community are convinced of the general lack of technical merit of the United States International Space Station Freedom program and are opposed to the program; and

(6) termination of the United States International Space Station Freedom program would save the Federal Government tens of billions of dollars.

SEC. 3. TERMINATION OF THE SPACE STATION PROGRAM.

(a) PROHIBITION.—Effective 90 days after the date of enactment of this section, no appropriated funds shall be available to carry out the provisions of section 106 of the National Aeronautics and Space Administration Authorization Act of 1988 (42 U.S.C. 2451 note).

(b) EXCEPTION.—Notwithstanding the provisions of subsection (a), not to exceed $500,000,000 of such funds referred to in subsection (c) may be used in terminating the United States International Space Station Freedom program.

(c) UNEXPENDED FUNDS.—Subject to the provisions of subsection (b), any funds appropriated for use on the United States International Space Station Freedom program that remain unexpended and unobligated 90 days after the date of enactment of this section shall be credited to the general revenues of the United States Treasury.

S. 463

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Deficit Reduction Through Superconducting Super Collider Termination Act of 1993".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the Federal budget deficit has grown to such an extent that it poses a serious short-, medium-, and long-term threat to the health of the United States economy;

(2) the gross interest costs on the National debt now exceed defense expenditures in the Federal budget and are one of the fastest-growing components in the Federal budget;

(3) the American people are demanding serious and fundamental changes in the Federal Government's management of spending priorities and overall fiscal stewardship;

(4) Federal Government programs that are not absolutely necessary to the health and well-being of the American people must be closely scrutinized for possible funding reduction or elimination; and

(5) termination of the Superconducting Super Collider program would save the Federal Government billions of dollars.

SEC. 3. TERMINATION OF SUPERCONDUCTING SUPER COLLIDER PROGRAM.

(a) PROHIBITION.—Effective 90 days after the date of enactment of this section, no appropriated funds shall be available for use on the Superconducting Super Collider program.

(b) EXCEPTION.—The provisions of subsection (a) shall not apply to any actions taken in terminating the Superconducting Super Collider program.

(c) UNEXPENDED FUNDS.—Any funds appropriated for use on the Superconducting Super Collider program that remain unobligated and unexpended 90 days after the date of enactment of this section shall be credited to the general revenues of the United States Treasury.

By Mr. SASSER:

S. 464. A bill to redesignate the Pulaski Post Office located at 111 West College Street in Pulaski, TN, as the "Ross Bass Post Office"; to the Committee on Governmental Affairs.

ROSS BASS POST OFFICE ACT OF 1993

• Mr. SASSER. Mr. President, I rise today to introduce S. 464, a bill to designate the U.S. Post Office in Pulaski, TN, as the "Ross Bass Post Office."

Mr. Bass served this country and his home State of Tennessee with great distinction. He graced this city with his presence as both a U.S. Representative and as a Senator. Mr. Bass was a statesman, a veteran, and a dear friend of mine and many others.

The designation of the facility in Pulaski as the "Ross Bass Post Office" is an especially appropriate tribute because he served as the postmaster of Pulaski for a number of years.

Ross Bass was born near Pulaski in Giles County, TN. After completing his education in Tennessee's public schools and earning his degree from Martin College in Pulaski, Mr. Bass served with distinction as a captain in the Air Corps during World War II.

It was not too long after his military service that Ross served as postmaster of Pulaski, and following 7 years of service in that capacity, he was elected to the 84th Congress.

Ross Bass served his State honorably in the House of Representatives for a decade. He resigned his seat in the House to serve in the Senate, completing the unexpired term of another great Tennessean, Estes Kefauver.

Ross remained an active and visible figure in both Washington, DC, and Tennessee after his years of government service.

S. 464 is a fitting tribute to Ross Bass who dedicated his life to the public good. Those of us who knew him will remember him and his good deeds with appreciation and fondness.•

By Mr. DASCHLE:

S. 465. A bill to amend the International Revenue Code of 1986 to encourage the production of biodiesel and certain ethanol fuels, and for other purposes; to the Committee on Finance.

RENEWABLE FUELS INCENTIVES ACT OF 1993

• Mr. DASCHLE. Mr. President, last year, Congress passed a comprehensive energy bill that was signed into law. That bill is important to the economic future of America and includes provisions that hold great promise for a particular interest of mine, alternative energy development. Unfortunately, however, as much as I supported that bill, it missed a significant opportunity to further diversify our energy sources, and promote economic development and a healthier environment.

Today I am introducing legislation pertaining to renewable liquid fuels, including ethanol. The intent of this legislation is to follow through on an

opportunity missed in last year's energy bill, and take a significant step toward reducing the national oil import bill and investing those funds in American jobs and industrial activity.

As a reminder for those who are familiar with the events of last year and to inform new Members of the Senate, an ongoing dispute between the Bush administration and the agriculture and ethanol communities over the implementation of the Clean Air Act received considerable attention last year. The substance of this dispute was and continues to be extremely important, and I regret that policy considerations were overwhelmed by short-term political exigencies in its resolution.

The debate over the role ethanol should play under the Clean Air Act amendments was joined in February 1992, when EPA released draft rules for the reformulated gasoline program. The domestic industry and farm organizations subsequently became locked in a disagreement with the Environmental Protection Agency about how ethanol affects air quality. Meanwhile, then-President Bush and his political advisers, evidently paralyzed by indecision about how not to offend influential political interests, sat by wringing their hands as farm organizations, oil lobbyists, and environmental groups threw barbs at each other.

On October 1, 1992, 1 week before adjournment and a month before the Presidential election, President Bush announced a solution to this impasse. It was one part regulatory fix, another part legislative changes, and a third part vague promises.

President Bush seemed to put forth a reasonable package that would help ensure ethanol a role in the reformulated gasoline program, as was the intent of Congress, while maintaining the environmental integrity of the Clean Air Act. It was not what any one group wanted, but it was a reasonable, workable solution. It quickly became apparent, however, that much of President Bush's announcement was an election year maneuver on which he had no intention of following through.

Most of what President Bush announced was to be accomplished through regulatory changes, now before the Environmental Protection Agency; but he also made a strong case for specific new legislative initiatives. I had hoped that, despite the late hour last year, strong advocacy by the President and his top policy advisers would lead to the incorporation of these provisions into the energy bill which would clear Congress shortly before adjournment. But that did not happen.

Much of the attention on President Bush's ethanol pronouncement last October was focused on his compromise proposal for allowing ethanol to participate in the reformulated gasoline program in ozone nonattainment areas. However, in that announcement President Bush also made three commitments that are very important to the long-term future of the domestic ethanol industry and to our Nation's energy future: first, to support a provision of the energy bill, now law, that allows a partial excise tax exemption for ethanol blends of two levels below 10 percent; second, to support making the alcohol blender credit nontaxable for blenders of ETBE; and, finally, to support the addition of biodiesel to the fuels that are eligible for the blender credit. This is a solid package that will allow ethanol and other renewable liquid fuels to be used in better ways and more profitably for the benefit of air quality, our energy independence, and farm sector.

When it became clear that President Bush was not prepared to get behind these measures in any serious way in the closing days of the 102d Congress, I introduced legislation at the end of the session to serve as a reminder of promises made and to provide a framework for discussions in the 103d Congresses. Today, I am reintroducing that legislation, and I am more convinced than ever that its passage is critical to our energy and agricultural future.

The bill I am introducing has three major provisions. First, it would provide that the alcohol fuel blender credit set forth under Internal Revenue Code section 40 may offset the alternative minimum tax, or AMT. Like many independent oil and gas producers, blenders of renewable fuels often find themselves in an AMT position and, therefore, unable to benefit from the economic incentive that the blender credit was intended to provide. Consistent with the policy behind the alternative minimum tax, the provision in the bill is limited so that the taxpayer cannot reduce AMT tax liability by more than 50 percent.

This provision was a part of the Senate version of the energy bill that was passed last year, but it was deleted in conference, for reasons unknown. At that time, the Joint Committee on Taxation estimated that the provision would cost $11 million over 5 years.

Second, the bill would provide a tax credit for biodiesel fuels. This is accomplished through an amendment to the current law section 40 blender tax credit. Biodiesel is an exciting new technology that has tremendous promise for expanding the use of renewable fuels. In South Dakota, we have been running two buses on biodiesel for more than a year, with remarkable success. Bus performance is better, pollution is down, and no modifications are needed to a diesel engine to run on the fuel, which can be used either neat—100 percent biodiesel—or as a diesel blend.

Finally, the bill would partially repeal the requirement under Internal Revenue Code section 87 that the blender tax credit be included in gross income. No income inclusion would be required with respect to any portion of the blender credit that is attributable to a biodiesel or to alcohol used to produce ethyl tertiary butyl ether [ETBE] or any other ether derived from an eligible alcohol.

For years now, this Senator has fought for ETBE development, which represents the long-term future of the domestic ethanol industry. In 1990, the Internal Revenue Service ruled that the ethanol used in ETBE manufacture is eligible for the blender tax credit. This ruling effectively commercialized ETBE manufacture. Unfortunately, the relative economics of ethanol and methanol still have locked ethanol out of the ether market.

There are many reasons why ETBE should become a mainstream player in the oxygenated fuels business. First, its chemical properties overcome the principal objections that are often heard about splash-blend ethanol; specifically, ETBE has a remarkably low vapor pressure—less than 4 pounds per square inch—and will help refiners meet Federal volatility standards. Second, ETBE, either straight or preblended, is fully pipeline fungible, whereas ethanol and ethanol blends usually need to be shipped in segregated storage.

ETBE will also give refiners a choice of feedstocks when making ethers. The choice will be made based on the relative availability, price, and/or performance of ethanol and methanol as a feedstock. This competition will be good for consumers.

My goal in making this change in the Tax Code is to encourage maximum participation in ETBE development by ethanol and alternative fuels producers. If artificial barriers still exist in the Tax Code that impede the development of a strong ETBE industry, I am open to consideration of further changes, and I welcome the comments and suggestions of all interested parties as the measure moves through the legislative process.

For the sake of clarification, I want to stress to my colleagues that these legislative changes are not intended to influence in any way the rulemaking process currently underway at EPA on the Clean Air Act's reformulated gasoline program. Nor do these tax changes alter any pollution laws to benefit any fuel or additive. The goal here is to move ethanol and other biofuels into important new areas and to remove disincentives in the Tax Code that inhibit the manufacture or use of ethanol or other renewable alcohol fuels.

As a final note, I should point out that I have received many suggestions for improving or adding to this legislation. There are technical issues that may need to be worked out before the provisions of this bill become law, and there are potential additions that

could be made. I look forward to working with representatives of the affected industries and other interested parties, my colleagues on both sides of the aisle, and with President Clinton to refine, pass, and implement the measures contained in this legislation.

I ask unanimous consent that the full text of the bill be printed in the RECORD following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 465

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ALCOHOL FUELS CREDIT MAY OFFSET MINIMUM TAX.

(a) IN GENERAL.—Subsection (c) of section 38 of the Internal Revenue Code of 1986 (relating to limitation based on amount of tax) is amended by adding at the end the following new paragraph:

"(3) ALCOHOL FUELS CREDIT MAY OFFSET MINIMUM TAX.—

"(A) IN GENERAL.—The amount determined under paragraph (1)(A) shall be reduced by the lesser of—

"(i) the portion of alcohol fuels credit determined under section 40(a) not used against the normal limitation, or

"(ii) 50 percent of the taxpayer's tentative minimum tax for the taxable year.

"(B) PORTION OF THE ALCOHOL FUELS CREDIT NOT USED AGAINST NORMAL LIMITATION.—For purposes of subparagraph (A), the portion of the alcohol fuels credit determined under section 40(a) not used against the normal limitation is the excess (if any) of—

"(i) the portion of the credit under subsection (a) which is attributable to such alcohol fuels credit, over

"(ii) the limitation of paragraph (1) (without regard to this paragraph), resulting by the portion of the credit under subsection (a) which is not so attributable."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by this section shall apply to taxable years beginning after September 30, 1992.

(2) EXCEPTION.—The amendment made by this section shall not apply to—

(A) any credit which was determined in a taxable year, or

(B) the portion of any credit which is carried back to a taxable year,

beginning on or before September 30, 1992.

SEC. 2. TAX CREDIT FOR BIODIESEL FUELS.

(a) IN GENERAL.—Section 40 of the Internal Revenue Code of 1986 (relating to credit for alcohol used as a fuel) is amended by adding at the end the following new subsection:

"(i) SPECIAL RULES FOR BIODIESEL.—

"(1) IN GENERAL.—In the case of biodiesel used as a component of, or replacement for, diesel fuel (as defined in section 4092(a))—

"(A) the biodiesel shall be treated in the same manner as alcohol for purposes of this section, and

"(B) Subsection (h) shall apply in computing the amount of any credit under this section with respect to the biodiesel.

"(2) BIODIESEL.—For purposes of this subsection, the term 'biodiesel' means a liquid derived from biological materials (other than alcohol) for use in compression ignition engines."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to biodiesel produced, and sold or used, in taxable years beginning after December 31, 1992.

SEC. 3. REPEAL OF ALCOHOL FUEL CREDIT INCOME INCLUSION FOR BIODIESEL AND CERTAIN ALCOHOLS.

(a) IN GENERAL.—Section 87 of the Internal Revenue Code of 1986 (relating to inclusion in income of the alcohol fuels credit) is amended by adding at the end the following new subsection:

"(b) EXCEPTION FOR BIODIESEL AND CERTAIN ALCOHOL-BASED ETHERS.—Subsection (a) shall not apply to any portion of the alcohol fuel credit determined for the taxable year under section 40(a) which is attributable to—

"(1) biodiesel (as defined in section 40(i)(2)),

"(2) ethanol which is used to produce ethyl tertiary butyl ether, or

"(3) alcohol which is used to produce any ether derived from alcohol in a chemical reaction in which there is no significant loss in the energy content of the alcohol."

(b) CONFORMING AMENDMENT.—Section 87 of such Code is amended by striking "Gross" and inserting:

"(a) IN GENERAL.— Gross".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.●

By Mr. DASCHLE (for himself and Mr. INOUYE):

S. 466. A bill to amend title XIX of the Social Security Act to provide for medicaid coverage of all certified nurse practitioners and clinical nurse specialists services; to the Committee on Finance.

MEDICAID NURSING INCENTIVE ACT OF 1993

● Mr. DASCHLE. Mr. President, today I am introducing the Medicaid Nursing Incentive Act of 1993, a bill to provide direct Medicaid reimbursement to nurse practitioners delivering care in underserved areas.

The ultimate goal of this proposal is to enhance the availability of cost-effective, primary care to our country's most needy citizens. Studies have documented the fact that millions of Americans each year forgo essential health services because physicians simply are not available to care for them. This problem plagues rural and urban areas alike, in parts of the country as diverse a south central Los Angeles and Lemmon, SD.

Medicaid recipients are particularly vulnerable, since in recent years an increasing number of health professionals have chosen not to treat them or have been unwilling to locate in the inner city and rural communities where these patients live. Fortunately, there is an exception to this trend: nurse practitioners frequently accept patients that others will not treat, and serve in areas where others refuse to work.

It is noteworthy that the stated purposes of the early training programs for nurse practitioners was to improve access to primary care in areas with physician shortages. This mission has not changed through the years. Indeed, it has become more ingrained in the nursing profession.

Nurse practitioners provide care that both patients and budget cutters praise. A number of recent studies, including one conducted by the Office of Technology Assessment, have documented that nurse practitioners provide cost-effective, quality care that gets high marks from patients.

Because of their advanced clinical training, nurse practitioners can assume responsibility for up to 80 percent of the primary care services usually performed by physicians.

The Department of Defense recognizes these facts. For over a decade, CHAMPUS has provided direct reimbursement to nurse practitioners. Likewise, more than 15 State require health insurers to reimburse nurses directly for their services.

Congress has also acknowledged the expanding contribution of nurse practitioners. Recent legislation has mandated direct Medicare reimbursement for nurse practitioners in rural areas, and direct Medicaid reimbursement for family nurse practitioners.

These initiatives have strengthened our health care delivery system, and the trend will continue. Specifically, it is time that Medicaid—like States, other third party payers and patients—recognize the quality and cost-effectiveness of nurse practitioners.

Mr. President, the ramifications of this issue extend beyond the Medicaid Program and it patients; there is a lesson here that applies to the broader cause of health care reform.

One of the cornerstones of reform in the expansion of primary and prevention care, delivered to individuals in convenient, familiar places where they work and live. More than 2 million nurses in America are already providing care in these sites—in schools, home health agencies, clinics, and nursing homes.

In places like my home State of South Dakota, nurses are often the only health providers available in the small towns and rural counties scattered throughout the State.

These nurses and other nonphysician providers play an important role in the delivery of care. And their role will increase in prominence as we convert from a system that focuses on the costly treatment of illness to one that emphasizes primary care and wellness promotion.

But first we must reevaluate outdated taboos and break down barriers that prevent nurses from caring for patients. This means reimbursing them directly and affording them the autonomy and authority they deserve.

As we develop a comprehensive health care reform bill, we should keep in mind that receiving quality, primary care does not always mean being treated by a physician.

Mr. President, I hope that my colleagues will support the measure I am introducing today and recognize that, as we develop a health reform package, we must recognize the vital role that nurse practitioners and other non-phy-

sician providers can play in our health care delivery system.●

● Mr. INOUYE. Mr. President, I rise today to introduce with Senator DASCHLE a bill to provide direct Medicaid reimbursement to nurse practitioners and clinical nurse specialists for services which they are legally authorized to perform, regardless of whether or not they are supervised by a physician. This measure expands that section of the Omnibus Budget Reconciliation Act of 1989, Public Law 101-239, which provided direct Medicaid reimbursement to certified pediatric and family nurse practitioners and would allow all nurses in advanced practice, regardless of specialty, to be accessed by Medicaid recipients.

Unfortunately, at the present time, many Medicaid recipients are not receiving essential health care because physicians are not available to them. Often, there are other health care providers, such as advanced practice nurses, who can fill these critical gaps. This bill would promote provider choice by allowing all nurse practitioners and clinical nurse specialists to be directly reimbursed under Medicaid, thereby enhancing the availability and quality of health care for the Nation's unserved and underserved citizens. Increasing access and early interventions will also help to alleviate serious health conditions that would be costly to treat in future years.

Nurse practitioners and clinical nurse specialists are well prepared to provide care to Medicaid patients. Their educational programs emphasize the provision of care to patients who have limited resources. Regardless of a nurse practitioner's type of practice or geographic setting, over half of their patients have annual family incomes of under $16,000.

After studying nurse practitioners at the request of the Senate Committee on Appropriations, the Office of Technology Assessment issued its findings in December 1986 that indicated that nurse practitioners clearly play legitimate roles in the health care system and have made important contributions to meeting the Nation's health care needs by: potentially reducing health care costs; improving the quality of health care services; improving the accessibility of health care services, and; increasing the productivity of medical practices and institutions. This study supports extending coverage for the services of nurses in advanced practice and asserts that direct payment to these providers is likely to improve health care for segments of the population that are currently not being served by our health care system.

The legislation we are introducing today, which has the support of the American Nurses Association and the American Academy of Nurse Practitioners, recognizes that better utilization of nurse practioners and clinical nurse specialists among the Medicaid population will help to enhance both access to and quality of care for those individuals whose access to health care services is severely limited.

As an addition to my comments, Mr. President, I ask unanimous consent to print in the RECORD an editorial written by Dr. Claire Fagin, president of the National League for Nursing, which was printed in the December 1992 issue of Nursing and Health Care.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE MYTH OF SUPERDOC BLOCKS HEALTH CARE REFORM

(By Claire M. Fagin, PhD, RN, FAAN)

I won't take a position on DC Comics' murder of Superman last month but I will call for the demise of an equally fanciful icon: the "Suprdoc" fantasy. Superdoc is the medical man or woman who knows all there is to know, solves everything related to health, and is the primary caregiver for the nation. Although a figment of the imagination, the Superdoc phantom is more powerful than a locomotive in holding back needed health reforms.

In reality, physicians cannot solve the vast majority of health problems that exist in health care today. Many of our current primary caregivers are often enough nurses, and many more could be with removal of artificial, politically imposed barriers. Though the poor stepchild among physicians' choices of specialties, primary care is an integral part of nursing in all aspects and central to the academic discipline of nursing. There is a strong tradition for this; nurses have been providing services like checkups, preventive care, prenatal care, and treatment for basic illnesses since the turn of the century. All the myriad studies on the subject confirm what our ancestors knew well: that Americans are better off seeing their nurse for primary basic care needs. Yet the persistent belief that all of our care should come from Superdoc undermines public access to the nursing services they need the most.

EVERY PROVIDER HAS A SPHERE OF EXPERTISE

This problem has widespread consequences. Some of our most perplexing health problems are not solved exclusively by physicians. For instance, communicable disease, preventable illnesses like tuberculosis, low-birth-weight infants, malnutrition, the need for ongoing care for the elderly and chronically ill, and a host of other health-related problems require not so much a physician as a complex combination of behavioral, social and political changes in addition to a range of health services that physicians alone cannot provide.

Every provider has a sphere of expertise that is valuable in solving these problems: Broadly stated, physicians specialize in curative interventions, pharmacists have special knowledge of the chemical and biological dynamics of drugs, dieticians have expertise in nutrition, and so on through a wide range of providers. And this Nation is blessed with the best health care providers in the world because, unlike many other sectors of American education, our health care educational systems are the envy of other nations.

As Lewis Thomas has said, nurses are the glue that binds these providers together; nursing expertise integrates the various facets of health service delivery on behalf of the one individual patient. We are counted on to be adept at primary care as well as emergency situations; we are educated to pick up subtleties—the slightly dilated pupil, the abnormal modulation in the infant's cry, signs of postoperative depression. As a result, studies have shown that nurses provide a higher quality of care than other providers—including physicians—for many services requiring this kind of whole patient perception.

Yet the Nation has rarely examined the health care problems in a way that would capitalize on the broad array of skills in the health professions. Instead, many pundits challenge physicians to be superheroes, to take responsibility for the entire realm of health issues. Thus many health policymakers look at problems like infant mortality, lack of preventive services, and escalating demand for elder care and call out for more doctors.

WHY REDESIGN THE SAW WHEN A HAMMER WILL WORK?

This approach is like using a saw to drive in a nail, then attempting to redesign the saw when it doesn't work. Why not just use a hammer? Why not deploy nurses and other providers who are proven capable of providing much of the care needed most in the Nation?

Nonetheless, policymakers have persisted in trying to redesign the saw for decades. They keep trying to encourage physicians, educated at great length and expense, to shift their focus away from the areas that interest them most and that use their knowledge and skills at the appropriate level. They have even established road blocks and regulations making it difficult for nurses and other providers to offer sorely needed services they are educationally prepared to provide and proven effective at delivering.

WE NEED COMMON SENSE, NOT FANTASIES

Despite these efforts, exactly the opposite of what was intended has occurred. Fewer and fewer physicians are entering specialties such as family practice, while vast numbers of nurses are starting innovative practice arrangements such as community nursing centers and home care that fill a vacuum in our delivery system. Nurses are becoming the Nation's primary caregivers with little prompting from Washington or traditional funding sources.

This has been an expensive, unhealthy, and futile waiting game as policymakers nostalgically yearn for Superdoc to swoop down and solve our health care mess. The bad news: Superdoc won't arrive because Superdoc doesn't exist. The good news: Working together—physicians, nurses, other providers, and consumers of health care—we have all the resources we need here on Earth. Meaningful health care reform, including better primary care, needs common human sense, not superhuman rescue fantasies.●

By Mr. MACK (for himself, Mr. GRAHAM, Mr. INOUYE, Mr. AKAKA, Mr. BREAUX, and Mr. JOHNSTON):

S. 467. A bill to amend the Internal Revenue Code of 1986 to provide tax relief for certain disaster victims, and for other purposes; to the Committee on Finance.

NATURAL DISASTER TAX RELIEF ACT OF 1993

● Mr. MACK. Mr. President, earlier this week, I was in Dade County to again review the recovery efforts following Hurricane Andrew. That hurricane struck my State 6 months ago and

the people in the hardest hit portions of south Dade are still struggling to get back on their feet and back in their homes. I had the opportunity on Monday to see the damage and to talk with my constituents. I find it difficult to put into words just how much destruction still exists and to explain how far we still have to go to get their lives back to normal.

Huge landfills are now prominent features of the landscape. Whole developments are now modern day ghost towns. Still in disrepair from the ravages of the hurricane, they remain largely uninhabited. Regrettably, they are a common sight in south Dade a full 6 months after Hurricane Andrew.

The people of south Dade and the other affected areas are still busy cleaning up, repairing that which is still repairable, and searching for other employment due to the destruction of their farms and businesses. These victims of Hurricanes Andrew, Iniki, and Typhoon Omar require more than heartfelt sympathy.

I am sure you recall all the energy and hard work which went into last session's disaster relief efforts. Among those pieces of legislation to assist disaster communities, were several tax provisions. If we act now, in the early stages of the 1992 tax filing season, we can still provide the intended assistance. The relief we can provide through these revenue negligible provisions will help ease the enormous burden which is already being carried by the victims of these disasters.

These same provisions now contained in this legislation are:

Penalty-free withdrawals from IRA's if funds are reinvested in a residence within 60 days of the time of withdrawal. There is no time limit for these withdrawals for the victims of Andrew, Iniki, and Omar who lost their homes.

The deferral for 1 year of any tax attributable to the income derived from the sale of crops of the qualified disaster area. Consistent with current law available for agricultural assistance, this would allow farmers in the disaster areas affected by Hurricanes Andrew, Iniki, or Typhoon Omar, more cash on hand immediately to help them get back on their feet.

Granting the HUD Secretary the authority to waive certain requirements with respect to low-income housing, and lifting the cap on mortgage revenue bonds within the disaster areas. And,

Extending from 2 to 4 years the time allowed to reinvest proceeds from the loss of a residence before it is subject to capital gains taxation. This will help those victims who must endure a construction backlog of new housing projects as they wait to rebuild their homes in those communities which, because of the hurricane, must rebuild their infrastructure—sewage, electricity, and water.

This legislation is very straightforward, but more than that, it is absolutely necessary. And although it will not alleviate the problems which still must be endured by those living in the affected areas, it will at least make them more bearable.

I hope you will join me in expediting the passage of this legislation free from any nongermane encumbrances.●

By Mr. THURMOND:

S. 468. A bill to amend provisions of title 18, United States Code, relating to terms of imprisonment and supervised release following revocation of a term of probation or supervised release; to the Committee on the Judiciary.

PROBATION AND SUPERVISED RELEASE REVOCATION ACT OF 1993

Mr. THURMOND. Mr. President, I rise today to introduce urgently needed legislation recommended by the U.S. Sentencing Commission to address one of the less visible, though important, aspects of criminal justice control—the area of probation and supervised release revocation.

There is widespread and growing confusion in the Federal courts regarding what sanctions a court may impose when it revokes an offender's term of probation, or supervised release, because the court finds that the offender has violated probation or supervised release conditions. This confusion hampers a vital tool in the court's crime control arsenal and creates the potential for considerable sentencing disparity. At the close of fiscal year 1992, over 65,000 offenders were serving terms of supervised release or probation. We simply can no longer permit the sanctions, that can assure effective supervisory control of these offenders, to be impaired.

This measure is noncontroversial and both Houses of Congress have passed this legislation several times before. The Senate passed similar legislation on four occasions: Twice as free-standing bills—S. 3180 passed October 26, 1990; S. 188 passed June 13, 1991; once as part of the 1991 crime bill—as title XXXIV of S. 1241, Comprehensive Violent Crime Control Act of 1991, passed July 11, 1991; and once as part of the Justice Improvements Act of the 102d Congress—S. 3349 passed October 7, 1992.

The House, too, has passed this legislation: Once on initial passage of the 1991 crime bill—as subtitle A of title XIX of H.R. 3371, Violent Crime Control and Law Enforcement Act of 1991; and once on approval of the conference report for the 1991 crime bill—as title XXV.

JUDICIAL FLEXIBILITY FOR RESENTENCING

The bill permits the flexibility Congress originally intended, that courts have when resentencing upon revocation of probation. This first provision of the bill—identical to section 2503(a)(1) of the crime bill conference report—clarifies an ambiguity in 18 U.S.C. 3565(a) by deleting that provision's reference to imposing a sentence "available under subchapter A at the time of initial sentencing." Appellate courts have interpreted this phrase as mandating that the sentence upon revocation be within the guideline range that applied when the defendant was originally sentenced. Under the proposed legislation, and consistent with Congress' original intent, any sentence up to the statutory maximum authorized for the offenses for which the defendant was initially sentenced to, probation could be imposed. In choosing the precise sentence in an individual case, the court's discretion would be guided by any guidelines or policy statements issued by the Sentencing Commission expressly to govern probation revocation.

Thus, the legislation ensures that courts will have the flexibility needed to sentence up to the statutory maximum for the original offense when violations are serious. It further provides that court discretion in resentencing will be guided by pronouncements that the Sentencing Commission has crafted specifically to apply in this area; that is, by any guidelines or policy statements issued by the Commission expressly to regulate probation revocation.

MANDATORY REVOCATION

In the case of unlawful possession of drugs or firearms, or of refusal to cooperate in drug testing, the bill requires mandatory revocation of probation or supervised release and mandatory imposition of a term of imprisonment. The second critical provision of the bill—substantively identical to section 2503(b) of the crime bill conference report—clarifies an ambiguity in 18 U.S.C. 3565(a) that arises from that provision's language that "the court shall revoke the sentence of probation and sentence the defendant to not less than one-third of the original sentence." The amendment would delete the arbitrary one-third requirement, but still mandate revocation of probation and a term of imprisonment in the event the defendant unlawfully possessed a controlled substance, and would resolve a conflict among appellate courts that arises from the current language. For example, at least two appellate courts have held that under the current provision the sentence is to be one-third of the upper end of the original guideline range, while other courts of appeals have held that the sentence must be one-third of the original term of probation.

The legislation also makes consistent, the punishment for unlawful possession of a controlled substance and possession of a firearm by requiring consideration of the nature and seriousness of the violation, and other relevant considerations, instead of arbitrarily varying the sanction according

to the length of the initially imposed term of probation. A similar provision already applies in the area of supervised release.

REIMPOSITION OF SUPERVISED RELEASE

The bill authorizes reimposition of a term of supervised release upon revocation. The third critical provision of the bill—substantively identical to section 2504 of the crime bill conference report—expressly authorizes the court to order an additional, limited period of supervision following revocation of supervised release and reimprisonment.

This provision clarifies various conflicting appellate decisions, most of which have held that current law precluded an additional period of supervised release upon revocation and reimprisonment. The provision would ensure that courts have flexibility to both revoke supervised release upon a violation and, within limits, reimpose a period of supervised release after any necessary reimprisonment.

This clarification is needed to protect the public. To the extent the current law is being interpreted by the courts, to preclude reimposing supervised release following revocation, offenders may be less likely to comply with supervision requirements. They may willingly risk a short period of reimprisonment that, upon completion, will end criminal justice control, rather than comply with conditions of supervised release for a longer period of time. Indeed, under prevailing court interpretations of current law, those offenders most need of supervision after prison—those that have been reimprisoned for violating their original term of supervised release—are not subject to a transition period of supervision following their reimprisonment.

The bill expressly limits a subsequent period of supervised release to the term authorized by statute, less any term of imprisonment imposed upon revocation.

Mr. President, I urge my colleagues to support this legislation which, as I have stated, has passed both the Senate and House in different legislative vehicles. I ask unanimous consent that the bill be printed in the RECORD in its entirety following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 468

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. IMPOSITION OF SENTENCE.

Section 3553(a)(4) of title 18, United States Code, is amended to read as follows:

"(4) the kinds of sentence and the sentencing range established for—

"(A) the applicable category of offense committed by the applicable category of defendant as set forth in the guidelines issued by the Sentencing Commission pursuant to section 994(a)(1) of title 28, United States Code, and that are in effect on the date the defendant is sentenced; or

"(B) in the case of a violation of probation or supervised release, the applicable guidelines or policy statements issued by the Sentencing Commission pursuant to section 994(a)(3) of title 28, United States Code;".

SEC. 2. TECHNICAL AMENDMENT TO MANDATORY CONDITIONS OF PROBATION.

Section 3563(a)(3) of title 18, United States Code, is amended by striking "possess illegal controlled substances" and inserting "unlawfully possess a controlled substance".

SEC. 3. REVOCATION OF PROBATION.

(a) IN GENERAL.—Section 3565(a) of title 18, United States Code, is amended—

(1) in paragraph (2) by striking "impose any other sentence that was available under subchapter A at the time of the initial sentencing" and inserting "resentence the defendant under subchapter A"; and

(2) by striking the last sentence.

(b) MANDATORY REVOCATION.—Section 3565(b) of title 18, United States Code, is amended to read as follows:

"(b) MANDATORY REVOCATION FOR POSSESSION OF CONTROLLED SUBSTANCE OR FIREARM.—If the defendant—

(1) possesses a controlled substance in violation of the condition set forth in section 3563(a)(3); or

(2) possesses a firearm, as such term is defined in section 921 of this title, in violation of Federal law, or otherwise violates a condition of probation prohibiting the defendant from possessing a firearm,

the court shall revoke the sentence of probation and resentence the defendant under subchapter A to a sentence that includes a term of imprisonment.".

SEC. 4. SUPERVISED RELEASE AFTER IMPRISONMENT.

Section 3583 of title 18, United States Code, is amended—

(1) in subsection (d), by striking "possess illegal controlled substance" and inserting "unlawfully possess a controlled substance";

(2) in subsection (e)—

(A) by striking "person" each place such term appears in such subsection and inserting "defendant"; and

(B) by amending paragraph (3) to read as follows:

"(3) revoke a term of supervised release, and require the defendant to serve in prison all or part of the term of supervised release authorized by statute for the offense that resulted in such term of supervised release without credit for time previously served on postrelease supervision, if the court, pursuant to the Federal Rules of Criminal Procedure applicable to revocation of probation or supervised release, finds by a preponderance of the evidence that the defendant violated a condition of supervised release, except that a defendant whose term is revoked under this paragraph may not be required to serve more than 5 years in prison if the offense that resulted in the term of supervised release is a class A felony, more than 3 years in prison if such offense is a class B felony, more than 2 years in prison if such offense is a class C or D felony, or more than one year in any other case; or"; and

(3) by striking subsection (g) and inserting the following:

"(g) MANDATORY REVOCATION FOR POSSESSION OF CONTROLLED SUBSTANCE OR FIREARM.—If the defendant—

(1) possesses a controlled substance in violation of the condition set forth in subsection (d), or

(2) possesses a firearm, as such term is defined in section 921 of this title, in violation of Federal law, or otherwise violates a condition of supervised release prohibiting the defendant from possessing a firearm, the court shall revoke the term of supervised release and require the defendant to serve a term of imprisonment not to exceed the maximum term of imprisonment authorized under subsection (e)(3).

"(h) SUPERVISED RELEASE FOLLOWING REVOCATION.—When a term of supervised release is revoked and the defendant is required to serve a term of imprisonment that is less than the maximum term of imprisonment authorized under subsection (e)(3), the court may include a requirement that the defendant be placed on a term of supervised release after imprisonment. The length of such a term of supervised release shall not exceed the term of supervised release authorized by statute for the offense that resulted in the original term of supervised release, less any term of imprisonment that was imposed upon revocation of supervised release.

"(i) DELAYED REVOCATION.—The power of the court to revoke a term of supervised release for violation of a condition of supervised release, and to order the defendant to serve a term of imprisonment and, subject to the limitations in subsection (h), a further term of supervised release, extends beyond the expiration of the term of supervised release for any period reasonably necessary for the adjudication of matters arising before its expiration if, before its expiration, a warrant or summons has been issued on the basis of an allegation of such a violation.".

ADDITIONAL COSPONSORS

S. 30

At the request of Mr. MCCAIN, the name of the Senator from South Dakota [Mr. PRESSLER] was added as a cosponsor of S. 30, a bill to amend title II of the Social Security Act to eliminate the earnings test for individuals who have attained retirement age.

S. 39

At the request of Mr. ROTH, the names of the Senator from North Dakota [Mr. DORGAN] and the Senator from Wisconsin [Mr. FEINGOLD] were added as cosponsors of S. 39, a bill to amend the National Wildlife Refuge Administration Act.

S. 55

At the request of Mr. METZENBAUM, the name of the Senator from West Virginia [Mr. BYRD] was added as a cosponsor of S. 55, a bill to amend the National Labor Relations Act and the Railway Labor Act to prevent discrimination based on participation in labor disputes.

S. 91

At the request of Mr. THURMOND, the names of the Senator from California [Mrs. FEINSTEIN], the Senator from Alabama [Mr. HEFLIN], the Senator from New Mexico [Mr. DOMENICI], and the Senator from North Dakota [Mr. CONRAD] were added as cosponsors of S. 91, a bill to authorize the conveyance to the Columbia Hospital for Women of certain parcels of land in the District of Columbia, and for other purposes.

S. 101

At the request of Mr. GLENN, the names of the Senator from North Dakota [Mr. DORGAN] and the Senator

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from North Dakota [Mr. CONRAD] were added as cosponsors of S. 101, a bill to establish a National Commission on Executive Organization Reform.

S. 185

At the request of Mr. GLENN, the names of the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Pennsylvania [Mr. WOFFORD], and the Senator from Michigan [Mr. RIEGLE] were added as cosponsors of S. 185, a bill to amend title 5, United States Code, to restore to Federal civilian employees their right to participate voluntarily, as private citizens, in the political processes of the nation, to protect such employees from improper political solicitations, and for other purposes.

S. 208

At the request of Mr. BUMPERS, the name of the Senator from Nebraska [Mr. EXON] was added as a cosponsor of S. 208, a bill to reform the concessions policies of the National Park Service, and for other purposes.

S. 214

At the request of Mr. THURMOND, the names of the Senator from California [Mrs. FEINSTEIN], the Senator from Texas [Mr. KRUEGER], the Senator from North Dakota [Mr. CONRAD], and the Senator from Pennsylvania [Mr. SPECTER] were added as cosponsors of S. 214, a bill to authorize the construction of a memorial on Federal land in the District of Columbia or its environs to honor members of the Armed Forces who served in World War II and to commemorate United States participation in that conflict.

S. 216

At the request of Mr. D'AMATO, the name of the Senator from Idaho [Mr. KEMPTHORNE] was added as a cosponsor of S. 216, a bill to provide for the minting of coins to commemorate the World University Games.

S. 257

At the request of Mr. BUMPERS, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of S. 257, a bill to modify the requirements applicable to locatable minerals on public domain lands, consistent with the principles of self-initiation of mining claims, and for other purposes.

S. 297

At the request of Mr. STEVENS, the names of the Senator from Kansas [Mr. DOLE], the Senator from Idaho [Mr. CRAIG], and the Senator from North Dakota [Mr. CONRAD] were added as cosponsors of S. 297, a bill to authorize the Air Force Memorial Foundation to establish a memorial in the District of Columbia or its environs.

S. 335

At the request of Mr. INOUYE, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 335, a bill to require the Secretary of Commerce to make additional frequencies available for commercial assignment in order to promote the development and use of new telecommunications technologies, and for other purposes.

S. 340

At the request of Mr. HEFLIN, the names of the Senator from New York [Mr. D'AMATO], the Senator from Tennessee [Mr. SASSER], the Senator from New York [Mr. MOYNIHAN], and the Senator from Washington [Mr. GORTON] were added as cosponsors of S. 340, a bill to amend the Federal Food, Drug, and Cosmetic Act to clarify the application of the act with respect to alternate uses of new animal drugs and new drugs intended for human use, and for other purposes.

S. 349

At the request of Mr. LEVIN, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 349, a bill to provide for the disclosure of lobbying activities to influence the Federal Government, and for other purposes.

S. 382

At the request of Mr. MOYNIHAN, the name of the Senator from Maryland [Mr. SARBANES] was added as a cosponsor of S. 382, a bill to extend the emergency unemployment compensation program, and for other purposes.

S. 384

At the request of Mr. D'AMATO, the name of the Senator from Pennsylvania [Mr. SPECTER] was added as a cosponsor of S. 384, a bill to increase the availability of credit to small businesses by eliminating impediments to securitization and facilitating the development of a secondary market in small business loans, and for other purposes.

S. 414

At the request of Mr. METZENBAUM, the name of the Senator from Maryland [Mr. SARBANES] was added as a cosponsor of S. 414, a bill to amend title 18, United States Code, to require a waiting period before the purchase of a handgun.

SENATE JOINT RESOLUTION 9

At the request of Mr. THURMOND, the name of the Senator from Alabama [Mr. HEFLIN] was added as a cosponsor of Senate Joint Resolution 9, a joint resolution proposing an amendment to the Constitution of the United States relating to voluntary school prayer.

SENATE JOINT RESOLUTION 42

At the request of Mr. BUMPERS, the names of the Senator from Vermont [Mr. JEFFORDS], and the Senator from Florida [Mr. GRAHAM] were added as cosponsors of Senate Joint Resolution 42, a joint resolution to designate the month of April 1993 as "Civil War History Month."

SENATE JOINT RESOLUTION 47

At the request of Mr. JOHNSTON, the names of the Senator from Arizona [Mr. DECONCINI], and the Senator from Hawaii [Mr. AKAKA] were added as cosponsors of Senate Joint Resolution 47, a joint resolution to designate the week beginning on November 21, 1993, and the week beginning on November 20, 1994, each as "National Family Week."

SENATE JOINT RESOLUTION 48

At the request of Mrs. MURRAY, the names of the Senator from Alabama [Mr. HEFLIN], the Senator from South Dakota [Mr. DASCHLE], and the Senator from Wisconsin [Mr. FEINGOLD] were added as cosponsors of Senate Joint Resolution 48, a joint resolution to designate February 21 through February 27, 1993, as "National FFA Organization Awareness Week."

SENATE CONCURRENT RESOLUTION 9

At the request of Mr. EXON, the names of the Senator from North Dakota [Mr. CONRAD], and the Senator from California [Mrs. BOXER] were added as cosponsors of Senate Concurrent Resolution 9, a concurrent resolution urging the President to negotiate a comprehensive nuclear weapons test ban.

SENATE RESOLUTION 35

At the request of Mr. LAUTENBERG, the name of the Senator from California [Mrs. BOXER] was added as a cosponsor of Senate Resolution 35, a resolution expressing the sense of the Senate concerning systematic rape in the conflict in the former Socialist Federal Republic of Yugoslavia.

SENATE RESOLUTION 68

At the request of Mr. D'AMATO, the names of the Senator from Ohio [Mr. GLENN], and the Senator from Idaho [Mr. CRAIG] were added as cosponsors of Senate Resolution 68, a resolution urging the President of the United States to seek an international oil embargo through the United Nations against Libya because of its refusal to comply with United Nations Security Council Resolutions 731 and 748 concerning the bombing of Pan Am Flight 103.

SENATE CONCURRENT RESOLUTION 11—RELATIVE TO THE PRESIDENT'S PROGRAM OF PROGRAM CUTS AND TAX INCREASES

Mr. SPECTER submitted the following concurrent resolution; which, pursuant to the order of August 4, 1977, was referred jointly to the Committee on the Budget and the Committee on Governmental Affairs:

S. CON. RES. 11

Whereas on February 17, 1993, President Clinton outlined in a State of the Union speech a program for increased spending and deficit reduction including new programs, spending cuts and taxes;

Whereas the 1990 budget agreement provides that there will be no increased expenditures without matching offsets or additional revenues unless an emergency is declared;

Whereas it would be unwise to declare an emergency under existing circumstances;

Whereas it would be unwise to provide for additional expenditures in a piecemeal fashion without simultaneously providing for appropriate offsets in budget cuts and or additional revenues;

Whereas it would be unwise to take any piecemeal action which would add to the deficit;

Whereas legislation to cut existing programs and to increase taxes would most likely be the most difficult part of any new legislative program: Now, therefore be it

Resolved, That it be the sense of the Congress that no action should be taken on any legislative proposal on the President's program unless it is a unified package containing offsets for any additional expenditures through cuts in programs or increased taxes.

Mr. SPECTER. Mr. President, I offer a sense-of-the-Congress resolution that President Clinton's package be considered in a unified form so that any additional expenditures would be offset either by spending cuts or by increased revenues so that we do not increase the deficit at any stage in the program.

The President made a stirring speech a week ago last night in his State of the Union Address and has come forward with a very comprehensive program which needs very considerable study. Under our 1990 budget resolution, we may not increase expenditures without offsetting cuts or offsetting revenues unless an emergency is declared. As set forth in this resolution, it is my conclusion that it would be unwise to declare an emergency, so there ought to be a unified package presented.

President Clinton has outlined a great many programs which have merit, but we have to consider their priorities in terms of what we can afford, in terms of the tax program. That requires a very careful analysis, and I for one am reluctant to ask Americans to pay any additional taxes at all until we have done everything possible on budget cuts and until we are certain that any tax increases will be applied to the deficit. Therefore, I give my colleagues notice that notwithstanding the statements made by the President, it will be useful to have the Congress express their sense on this very important issue of a unified package.

I commend the administration on its stated desire to reduce the deficit. I share that goal. The mounting deficit is a threat to the health and viability of our country's economy and bipartisan cooperation between the Congress and the administration will be required in order to effectively deal with our national debt currently reported at $4 trillion.

While I have serious reservations about a number of items in President Clinton's proposal, in particular, the increased tax burden on individuals in the $30,000 a year earning range, it is imperative that we resolve not to approve any additional expenditures unless, and until, we have provided for the necessary budget cuts and offsets. We must continue with the procedures as defined in the 1990 budget agreement, which provides that increased expenditures must have matching offsets or additional revenues unless an emergency has been declared.

The President's plan calls for new taxes and new spending programs virtually immediately while program cuts generally do not take effect until the later years of the 6-year program. I cannot endorse new tax burdens on the vast majority of Americans unless we simultaneously address existing spending programs. Nor can I endorse new Government programs unless we simultaneously address existing spending programs.

News reports indicate that a budget resolution may be the appropriate response to the call for implementing the President's plan as a unified legislative package. While a budget resolution would require congressional action, it would be nonbinding. It is, therefore, my belief that Congress should consider enacting stronger legislation to ensure that deficit reduction, program cuts, and any recommended tax increases are considered as a unified, binding legislative package.

Further, as the President has made known his intention to overhaul the Nation's health care system, we are as yet uncertain as to the effect that the overhaul will have on the deficit and the amount that will be required in additional taxes. I hope that the Congress will bring a unified package to the floor for consideration in the near furture, and if the President's health care proposal is offered sooner, rather than later, that the impact of the time important proposal is considered simultaneously with the deficit reduction proposal before us.

I believe that to ensure true deficit reduction and real program cuts as proposed by the President in his State of the Union speech, there must be an enforcement mechanism requiring Congress to act accordingly. Congress has previously adopted legislation, such as the Gramm-Rudman-Hollings Deficit Reduction Act and the 1990 Reconciliation Act, which use enforcement mechanisms to reduce the deficit somewhat successfully. These acts, however, provided opportunities for Congress and the President to avoid these enforcement mechanisms. We must in this situation provide true enforcement of deficit reduction targets to ensure that Congress and the President are faithful to their commitments.

Congress must respond to President Clinton's proposal to construct a package that will address deficit reduction and economic investment. Many Pennsylvanians have expressed to me that Congress and the President should first make cuts in existing programs before new spending programs are created and taxes are raised. My resolution attempts to do just that.

The President's package should be analyzed as a whole to ensure that there is proper balance and that no single group bear a disproportionate share of the burden in reducing our Nation's debt. I urge my colleagues to support this resolution and request that consideration be given to the unified approach to the President's plan.

SENATE RESOLUTION 74—EXPRESSING THE OPPOSITION OF THE SENATE TO THE IMPOSITION OF A FEE ON OR IN-KIND STORAGE DIVERSION REQUIREMENT FOR IMPORTED CRUDE OIL AND REFINED PETROLEUM PRODUCTS

Mr. PELL (for himself, Mr. MITCHELL, Mr. CHAFEE, Mr. KENNEDY, Mr. DODD, Mr. KERRY, Mr. LIEBERMAN, Mr. D'AMATO, Mr. SMITH, Mr. COHEN, Mr. GREGG, Mr. JEFFORDS, Mr. LAUTENBERG, and Mr. ROTH) submitted the following resolution; which was referred to the Committee on Finance:

S. RES. 74

Whereas a fee on imported crude oil and refined petroleum products, whether in the form of a levy for general revenues, a levy to fund specific programs, or an in-kind storage requirement of a percentage of imported crude oil and refined petroleum products, and whether fixed or variable, would directly increase the costs of production and manufacturing for industries that use petroleum products;

Whereas the increased production costs resulting from such a fee, levy, or diversion would impair the ability of industries to compete in international markets;

Whereas such a fee, levy, or diversion would directly increase the costs to other users of petroleum products, including those dependent on oil and oil products to heat their homes and those who use electricity generated from oil; and

Whereas the increased costs to industry and to homeowners from such a fee, levy, or diversion would not be uniformly distributed among geographic regions or economic sectors, but would be borne disproportionately by the regions and economic sectors that are most dependent on petroleum products: Now, therefore, be it

Resolved, That it is the sense of the Senate that neither the President nor the Congress should impose fees, levies, or diversion requirements on imported crude oil and refined petroleum products.

Mr. PELL. Mr. President, President Clinton, in his address to the Congress last week, proposed bold steps for restoring the vitality of our country's economy and real solutions for dealing with the Federal deficit. As the Senate begins the task of debating and modifying his economic plan, I want to express my whole-hearted concurrence in his decision not to propose an oil import fee. For years, I have steadfastly opposed an oil import fee because of the disproportionate harm it would cause consumers in my home State of Rhode Island and the New England region. The President has recognized the unfairness of such a tax and has rightfully steered away from proposing its implementation.

Unfortunately, simply because the President has not included an oil import fee in his economic plan does not mean that efforts will not be made here in Congress to do so. Indeed, I note that legislation has already been introduced in the Senate which would provide a price floor for imported oil—in effect simply another way of implementing an oil import fee. Such efforts have been made in the past and I have no doubt there will be more in the future. It is because of this that I am introducing today a resolution which expresses opposition to oil import fees, no matter what form they take. I am joined by colleagues on both sides of the aisle who likewise recognize the unfairness of such a taxation policy.

What is wrong with the concept of an oil import fee? President Clinton, in asking for sacrifice in the form of increased taxes from all Americans, stated that the burden must be balanced and fair. I could not agree more. An oil import fee, however, violates this concept. Such a tax would cost consumers nationwide twice what it would generate in Federal revenue and more than twice what other energy tax alternatives would cost. Of the major energy tax alternatives under consideration, you could not pick a worse one for American consumers.

Moreover, for particular regions of the country the impact is disproportionately even greater. The New England region, which includes my home State of Rhode Island, is the most severely affected. A recent study shows that households in the six-state New England region would pay an average of $319 for a $5 per-barrel oil import fee. The study also shows that the average cost per household nationally would be $159 and furthermore that five other States would actually make money per household. This is manifestly unfair and in the context of fair, shared sacrifice, cannot be permitted to happen. Oil-consuming regions should not be required to both finance the budget deficit and, in the process, provide a windfall to oil-producing regions and domestic oil companies.

In terms of various energy tax alternatives, the President has suggested that a Btu tax be imposed. On its face, a Btu tax which does not discriminate between the various kinds of fuels would, in my opinion, be the best choice. The President's plan, however, contains within it a plan to differentiate the amount of tax to be placed on oil as opposed to all other fuels. This will tend to hit home heating oil consumers harder than others and I must express my reservations about this part of the President's plan. Nevertheless, taken as a whole, there is great merit in the idea of a Btu tax.

Mr. President, as we consider various ways in which to deal with the difficult budget problems facing our country, I believe that the voters of my State and the American public in general are willing to accept necessary sacrifice as long as its fair and spread evenly among all people. With this resolution, I express the hope that Congress and the Senate will follow the President's lead and not consider an oil import fee.

Mr. President, I ask unanimous consent that a copy of a study conducted by the Northeast-Midwest Institute be printed in the CONGRESSIONAL RECORD .

There being no objection, the study was ordered to be printed in the RECORD, as follows:

COST TO CONSUMERS OF OIL IMPORT FEE[1]

[In millions of dollars]

State or region	Cost of oil import fee	Revenues from production of crude oil	Net cost of oil import fee	Cost of oil import fee per household
New England:				
Connecticut	379,685,000	0	−379,685,000	−309
Maine	210,925,000	0	−210,925,000	−454
Massachusetts	693,955,000	0	−693,955,000	−309
New Hampshire	138,905,000	0	−138,905,000	−338
Rhode Island	89,915,000	0	−89,915,000	−238
Vermont	64,710,000	0	−64,710,000	−307
Total	1,578,095,000	0	−1,578,095,000	−319
Mid-Atlantic:				
Delaware	117,890,000	0	−117,890,000	−477
Maryland	451,205,000	0	−451,205,000	−258
New Jersey	1,081,335,000	0	−1,081,335,000	−387
New York	1,568,370,000	2,080,000	−1,566,290,000	−236
Pennsylvania	1,149,785,000	13,215,000	−1,136,570,000	−253
Total	4,368,585,000	15,295,000	−4,353,290,000	−273
Midwest:				
Illinois	1,132,215,000	99,770,000	−1,032,445,000	−246
Indiana	762,395,000	15,000,000	−747,395,000	−362
Iowa	288,495,000	0	−288,495,000	−271
Michigan	843,330,000	98,375,000	−744,955,000	−218
Minnesota	454,760,000	0	−454,760,000	−276
Ohio	1,025,875,000	50,040,000	−975,835,000	−239
Wisconsin	440,020,000	0	−440,020,000	−242
Total	4,947,090,000	263,185,000	−4,683,905,000	−256
South:				
Alabama	482,860,000	92,690,000	−390,170,000	−259
Arkansas	259,285,000	51,395,000	−207,350,000	−233
District of Columbia	33,465,000	0	−33,465,000	−134
Florida	1,415,435,000	28,370,000	−1,387,065,000	−270
Georgia	760,340,000	0	−760,340,000	−321
Kentucky	467,660,000	27,055,000	−440,605,000	−319
Louisiana	1,337,015,000	737,915,000	−599,100,000	−400
Mississippi	362,950,000	135,165,000	−227,785,000	−250
North Carolina	679,660,000	0	−679,660,000	−270
Oklahoma	396,225,000	561,370,000	−165,145,000	137
South Carolina	372,990,000	0	−372,990,000	−296
Tennessee	536,010,000	2,540,000	−533,470,000	−288
Texas	4,485,585,000	3,392,400,000	−1,093,185,000	−180
Virginia	686,125,000	75,000	−686,050,000	−299
West Virginia	268,105,000	10,715,000	−257,390,000	−374
Total	12,543,710,000	5,040,230,000	−7,503,480,000	−252
West:				
Alaska	205,265,000	3,236,550,000	3,031,285,000	16,039
Arizona	322,600,000	610,000	−321,990,000	−235
California	3,206,135,000	1,604,340,000	−1,601,795,000	−154
Colorado	302,650,000	152,270,000	−150,380,000	−117
Hawaii	251,460,000	0	−251,460,000	−706
Idaho	109,375,000	0	−109,375,000	−303
Kansas	390,625,000	277,135,000	−113,490,000	−120
Missouri	573,250,000	730,000	−572,520,000	−292
Montana	132,900,000	99,050,000	−33,850,000	−111

COST TO CONSUMERS OF OIL IMPORT FEE [1]—Continued

[In millions of dollars]

State or region	Cost of oil import fee	Revenues from production of crude oil	Net cost of oil import fee	Cost of oil import fee per household
Nebraska	188,815,000	29,450,000	−159,365,000	−265
Nevada	157,670,000	20,060,000	−137,610,000	−295
New Mexico	214,910,000	336,235,000	121,325,000	223
North Dakota	99,900,000	183,580,000	83,680,000	347
Oregon	319,275,000	0	−319,275,000	−289
South Dakota	101,810,000	8,240,000	−93,570,000	−361
Utah	177,140,000	138,020,000	−39,120,000	−73
Washington	699,805,000	0	−699,805,000	−374
Wyoming	112,945,000	519,275,000	406,330,000	2,404
Total	7,566,530,000	6,605,545,000	−960,985,000	−42
Northeast	5,946,680,000	15,295,000	−5,931,385,000	−284
Midwest	4,947,090,000	263,185,000	−4,683,905,000	−256
Northeast and Midwest	10,893,770,000	278,480,000	−10,615,290,000	−271
South	12,543,710,000	5,040,230,000	−7,503,480,000	−252
West	7,566,530,000	6,605,545,000	−960,985,000	−42
South and West	20,110,240,000	11,645,775,000	−8,464,465,000	−160
U.S. total	31,004,010,000	[2]16,414,695,000	[2]−14,589,315,000	[2]−159

[1] Reflects impact of Senator Bennett Johnston's proposal to set a floor price of $25 per barrel on imported crude oil, with the assumption of a $20 per barrel world crude oil price for 1993.
[2] Total includes 299,835 thousand barrels of offshore production and 598,252 thousand barrels of natural gas liquids not distributed by state.

Sources: Northeast-Midwest staff calculations based on U.S. Department of Energy, Energy Information Administration, "Petroleum Supply Annual 1990: Volume 1 "Washington, D.C., May 1991). p. 15: "State Energy Data Report: Consumption Estimates 1960–90" (Washington D.C., May 1992), pp. 31 and 34.

AMENDMENTS SUBMITTED

RESOLUTION AUTHORIZING FINANCIAL EXPENDITURES BY SENATE COMMITTEES

McCONNELL (AND OTHERS) AMENDMENT NO. 62

Mr. McCONNELL (for himself, Mr. GREGG, Mr. McCAIN, Mr. BURNS, Mr. COHEN, and Mr. SMITH) proposed an amendment to the resolution (S. Res. 71) authorizing financial expenditures by the committees of the Senate, as follows:

At the end of the resolution, add the following:

UNFUNDED FEDERAL MANDATES

SEC. . (a) It is the order of the Senate that no question on final passage of any bill, joint resolution, concurrent resolution, or resolution and no question on the adoption of any amendment shall be put if it contains an unfunded Federal mandate that requires a State or subdivision of a State to take action that it would not take absent the mandate at a cost that would not otherwise be incurred.

(b) Subsection (a) may be waived only by the concurrence of three-fifths of the Senators duly chosen and sworn.

BROWN AMENDMENT NO. 63

Mr. BROWN proposed an amendment to the resolution (S. Res. 71), supra, as follows:

"UNEXPENDED SURPLUSES

"SEC. . In order to ensure that the funds appropriated from the Federal Treasury for the operation of the United States Senate are subject to requirements similar to those imposed on funds appropriated from the Treasury for the operation of executive branch agencies or departments, in regard to the availability of appropriated funds beyond the time periods for which such funds are appropriated, no committee of the Senate may carry over an unexpended balance beyond March 1, 1995.".

PELL AMENDMENT NO. 64

Mr. PELL proposed an amendment to the resolution (S. Res. 71), supra, as follows:

On page 35, strike line 11.

On page 36, between lines 5 and 6, insert "Foreign Relations ($355,823).".

CONGRESSIONAL SPENDING LIMIT AND ELECTION REFORM ACT OF 1993

PELL AMENDMENT NO. 65

Mr. PELL submitted an amendment intended to be proposed by him to the bill (S. 3) entitled the Congressional Spending Limit and Election Reform Act of 1993, as follows:

At the end of title VIII, add the following new section:

SEC. . FREE BROADCAST TIME AND DISSEMINATION OF POLITICAL INFORMATION.

(a) AVAILABILITY OF FREE BROADCAST TIME.—Title III of the Communications Act of 1934 (47 U.S.C. 301 et seq.) is amended by inserting after section 315 the following new section:

"FREE BROADCAST TIME FOR SENATE CANDIDATES

"SEC. 315A. (a) In addition to broadcast time that a licensee makes available to a candidate under section 315(a), a television station licensee shall make available at no charge, for allocation to Senate candidates within its broadcast area under section 503 of the Federal Election Campaign Act of 1971, 3 hours of broadcast time during a prime time access period described in section 501 of that Act to each Senatorial campaign committee designated under section 502 of that Act.

"(b) An appearance by a candidate on a news or public service program at the invitation of a television station or other organization that presents such a program shall not be counted toward time made available pursuant to subsection (a).".

(b) ALLOCATION BY SENATORIAL CAMPAIGN COMMITTEES.—The Federal Election Campaign Act of 1971 (2 U.S.C. 301 et seq.) is amended by adding at the end thereof the following new title:

"TITLE V—DISSEMINATION OF POLITICAL INFORMATION

"SEC. 501. DEFINITIONS.

For the purposes of this title—

"(1) the term 'free broadcast time' means time provided by a television station during a prime time access period pursuant to section 315A of the Communications Act of 1934;

"(2) the term 'major party' means a political party whose candidate the Senate in a State placed first or second in the number of popular votes received in either of the 2 most recent general elections;

"(3) the term 'minor party' means a political party other than a major party—

"(A) whose candidate for the Senate in a State received more than 5 percent of the popular vote in the most recent general election; or

"(B) which files with the Commission, not later than 90 days before the date of a general or special election in a State, the number of signatures of registered voters in the State that is equal to 5 percent of the popular vote for the office of Senator in the most recent general or special election in the State;

"(4) the term 'prime time access period' means the time between 7:30 p.m. and 8:00 p.m. of a weekday during the period beginning on the date that is 60 days before the date of a general election or special election for the Senate and ending on the day before the date of the election; and

"(5) the term 'Senatorial campaign committee' means the committee of a political party designated under section 602.

"SEC. 502. DESIGNATION OF SENATORIAL CAMPAIGN COMMITTEES.

(a) APPLICATION.—(1)(A) The national committee of a major party or minor party that has established a committee for the specific purpose of providing support to candidates for the Senate may file with the Commission an application for designation of that committee as the Senatorial campaign committee of that political party for the purposes of this title.

"(B) The national committee of a major party or minor party that has not established a committee for the specific purpose of providing support to candidates for the Senate may file with the Commission an application for designation of the national committee as the Senatorial campaign committee of that political party for the purposes of this title.

"(2) An application under paragraph (1) shall be in such form as the Commission may require and shall include a certification by the applicant that the Senatorial campaign committee will—

"(A) allocate free broadcast time in accordance with section 503 to candidates for the Senate in general and special elections in which at least 1 other candidate for the Senate have qualified for the general election ballot;

"(B) keep and furnish to the Commission any books, records, or other information it may request; and

"(C) cooperate in any audit by the Commission.

"(3) The Commission shall determine whether to approve or deny an application under this section not later than 7 days after receipt.

"(c) If the Commission makes a determination to deny an application under this section, the applicant shall be afforded a hearing with respect to the determination in accordance with section 554 of title 5, United States Code.

"SEC. 503. ALLOCATION AND USE OF FREE BROADCAST TIME.

"(a) ALLOCATION.—A Senatorial campaign committee of a political party shall allocate free broadcast time made available by a television station licensee under section 315A of the Communications Act of 1934 among the candidates of that party for the Senate in the licensee's broadcast area.

"(b) USE.—A Senatorial campaign committee shall ensure that—

"(1) free broadcast time is used in a manner that promotes a rational discussion and debate of issues with respect to the elections involved;

"(2) in programs in which free broadcast time is used, not more than 25 percent of the time of the broadcast shall consist of presentations other than a candidate's own remarks;

"(3) free broadcast time is used in segments of not less than 1 minute; and

"(4) not more than 15 minutes of free broadcast time is used by any 1 candidate in a 24-hour period.

"SEC. 504. REPORTS TO CONGRESS.

"The Commission shall submit to Congress, not later than June 1 of each year that follows a year in a general election for the Senate is held, a report setting forth the amount of free broadcast time allocated to candidates under section 503.

"SEC. 505. PARTICIPATION BY COMMISSION IN JUDICIAL PROCEEDINGS.

"(a) IN GENERAL.—The Commission may appear in any action filed under this section, either by attorneys employed in its office or by counsel whom it may appoint without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and whose compensation it may fix without regard to the provisions of chapter 51 and title III of chapter 53 of that title.

"(b) ENFORCEMENT.—The Commission may petition a district court of the United States for declaratory or injunctive relief concerning any civil matter arising under this title, through attorneys and counsel described in subsection (a).

"(c) APPEALS.—The Commission may, on behalf of the United States, appeal from, and petition the Supreme Court of the United States for certiorari to review, a judgment or decree entered with respect to an action in which it appeared pursuant to this section.".

Mr. PELL. Mr. President, I am introducing as an amendment to S. 3, the campaign reform bill, my proposal to provide free broadcast time for Senate candidates. The language of this amendment No. 65 is identical to that of S. 54, which I introduced on January 21.

As I noted at that time, S. 54, and now this amendment, provides an alternative to the provision of S. 3 which would give eligible candidates vouchers for broadcast time which would be redeemed by the Federal Treasury. My approach differs in that broadcasters would be required to provide limited time for political campaigns as a public service, without reimbursement from public funds.

The amendment requires TV stations—as a condition of their license to use public airwaves—to provide time for campaign use to the national committees of the political parties, which would in turn allocate the time to eligible candidates for the Senate. Minor parties showing support of at least 5 percent of the electorate would also be eligible to participate.

I believe my approach is particularly appropriate in this time of austerity, because it is a no-cost proposal, as opposed to the voucher plan of S. 3 which requires redemption by the Treasury. The basic commodity of the amendment is an existing public resource—namely the airwaves—which the Congress can properly require to be used for political debate.

I recognize that my proposal would cause some pain—in this case to the broadcast industry, which may lose some of the revenues usually generated by Senate campaigns. But I would suggest, in the spirit of President Clinton's call for mutual sacrifice, that this is a relatively modest and very appropriate burden for the industry to bear—particularly since it is in the interest of serving the democratic process.

Moreover, I would note that my proposal is in no way restrictive of present campaign practices with respect to the purchase of broadcast time. Any candidate, whether or not a recipient of free time under this bill, is still at liberty to go out and purchase as much additional media time as he or she can afford and needs. Hopefully, however, the substantial infusion of free time provided by the bill will significantly reduce campaign expenditures for such media purchases.

Mr. President, as President Clinton reminded us last week, passage of a real campaign finance reform bill is one way to restore lagging public confidence in the institutions of government. In this context, the Committee on Rules and Administration will hold hearings next week on the financing of congressional election campaigns, and I offer an amendment as a constructive option for the committee to consider.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON PUBLIC LANDS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands, National Parks and Forests of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 2 p.m., February 25, 1993, to receive testimony on S. 206, to designate certain lands in the State of Colorado as components of the National Wilderness Preservation System, and for other purpose; and S. 341, to provide for a land exchange between the Secretary of Agriculture and Eagle and Pitkin Counties in Colorado, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate 9:30 a.m., February 25, 1993, to receive testimony on S. 338, the Petroleum Marketing Practices Act Amendments of 1993.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON SMALL BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Small Business Committee be authorized to meet during the session of the Senate on Thursday, February 25, 1993, at 10 a.m. The committee will hold a full committee oversight hearing on the Small Business Administration's Microloan Demonstration Program.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet at 3:30 p.m. on Thursday, February 25, 1993, in closed session, to receive a JCS briefing and update on the situation in Bosnia.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate Armed Services Committee be authorized to meet on Thursday, February 25, 1993, at 9:30 a.m. in open session, to consider the nomination of William J. Perry to be Deputy Secretary of Defense.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON VETERANS' AFFAIRS

Mr. MITCHELL. Mr. President, the Committee on Veterans' Affairs would like to request unanimous consent to hold a joint hearing with the House Committee on Veterans' Affairs to receive legislative presentations from the Paralyzed Veterans of America, the

Blinded Veterans of America, and other veterans' organizations. The hearing will be held on February 25, 1993, at 9:30 a.m. in room 345 of the Cannon House Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

NATIONAL COMPETITIVENESS ACT OF 1933

• Mr. BAUCUS. Mr. President, I rise today in support of a bill I am cosponsoring, the National Competitiveness Act of 1993. I am glad to see this bill get the number S. 4. America's long-term economic health has finally become the top national priority it should be.

And that is a changed state of affairs. For a long time, we have been fiddling while Rome burned. Over the past 20 years, American companies have abandoned whole industries, such as consumer electronics. Now we find that these industries drive the development of the high technology products and processes of the future—lasers, microchips, precision manufacturing, and a host of others.

Many American companies continue to excel. However, if you pick up their products and turn them over, all too often you will see "Made in Japan" or "Made in Singapore" stenciled on the bottom. It is not paying those companies to make precision goods such as microchips and disc drives at home.

We aren't just talking about losing jobs to cheap foreign labor, either. Manufacturing labor costs in the United States are $15.45 per hour, compared to $14.41 in Japan and a whopping $22.17 in Germany. The competition is not working cheaper than we are. It is working smarter.

It is clear that private sector managers bear some responsibility for our Nation's technological and manufacturing decline. However, our Government's policies are implicated as well. Many of the other industrialized nation's governments have paid much closer attention to these matters. The difference is beginning to tell.

I want to talk about just a couple of the goals of the legislation before us.

We have a lot of enormous corporations in this country involved in technological pursuits. Now, size can be an obstacle to nimble performance, it is true. But economies of scale do exist as well. A giant chemical company can afford to research new production technologies. It can afford to spend several million dollars on a new machine, and see if it will work out.

Small companies don't have that luxury. They don't have the time and resources needed to gather information about new developments in every field relevant to their industry. And they can't afford a multimillion dollar mistake on a fancy new machine tool.

That's why I think the Manufacturing Outreach Program in this bill is a good idea. It will create a national manufacturing extension system, linking established centers and helping to develop extension programs where they are needed.

This system will help small firms find the information they need to upgrade their operations with a minimum of risk. That is good for our manufacturing base. It is good for America.

In this bill, we are also proposing to increase the authorized funding for the Advanced Technology Program, by a substantial amount. The Advanced Technology Program is our Government's main way of aiding industry-led projects focusing on precommercial technologies.

Right now, we have appropriated $68 million for 1993. At the same time, our Government plans to spend over $70 billion on all of its R&D, and industry another $76 billion. Offering $68 million in matching funds is not going to have a terrific impact. Stepping up funding in this crucial area is called for.

THE CNP REPORT

Now, though I endorse the contents of the National Competitiveness Act of 1993, I have to point out that this bill is addressing only one part of a wide-ranging challenge. Last year, I worked very closely with the Center for National Policy in studying the components of long-term economic growth.

I almost bit off more than I could chew. I ended up writing a 130 page report I called "The New American Economy: Building for the Long Term." In that report, I examined some of the technology proposals we are advocating in this bill. But at the same time, I realized how much more needs to be done.

We can't expect a small group of scientists and researchers working away in labs to solve all our problems. Even the greatest machines are useless if our workers aren't well-educated and properly trained. That's why I come down in favor of improving school-to-work transition programs and training grants for workers.

Manufacturing extension programs may offer great advice on state-of-the-art production techniques. But companies that can't raise the capital won't benefit from that advice. Our tax system and our deficit are squeezing capital formation, and we need to tackle that problem head on. The President's budget takes a significant step in that direction. In the long term, I think national consumption taxes deserve careful attention.

Public investment in infrastructure has suffered over the past 20 years. Roads, bridges, and ports aren't as flashy as microprocessors, but they are essential for long-term economic growth. They deserve attention when we assess our competitiveness.

Finally, even if we do everything right here at home, we still need to deal with the rest of the world. We are part of a global, interdependent economy. Our trade policies, and those of our trading partners, must honor the principles of open markets and fair trade. With the NAFTA, the continuation of fast track, and other trade legislation soon to come before this body, we must focus our efforts on crafting the best possible trade policy.

The National Competitiveness Act of 1993 represents a worthy start to the struggle to restore America's long-term economic health. This country is still a great manufacturer and technological leader, and this bill will help keep that true.•

TRIBUTE TO BEDFORD

• Mr. MCCONNELL. Mr. President, I rise today to pay tribute to the town of Bedford in Trimble County.

Bedford is a small town located 43 miles northeast of Louisville, tucked in the rolling hills of northern Kentucky and bordered by the Ohio River.

A freshwater spring brought people to Bedford during the late 1700's and 1800's. Through the years, the spring continued to flourish, often serving as the primary source of water for local families until the 1950's.

Today, Bedford serves as a haven for individuals who desire a quiet life. The town has been able to avoid the social headaches that plague many cities. There are no traffic problems in Bedford, the crime rate is low, and fast-food restaurants have yet to invade.

Bedford also benefits from a tight-knit community. Bedford citizens are very giving, often going out of their way to help friends and neighbors. The community is also supportive of local endeavors, and many individuals look forward to the day when development will occur but Bedford's rural qualities will be preserved.

I applaud Bedford's efforts to preserve simple living and small town values, making it one of Kentucky's finest towns.

Mr. President, I ask that this tribute and a recent article from Louisville's Courier-Journal be printed in today's CONGRESSIONAL RECORD.

The article follows:

BEDFORD

(By Joseph Gerth)

Not too long ago eight or 10 senior citizens would sit on benches at the Trimble County Courthouse and solve the world's problems.

"The old guys would sit out there all day, chew tobacco and whittle. I can remember piles of cedar shavings that high," said Jailer Keith Harmon, 70, holding his hand about halfway up his thigh. "They're all gone now."

"Yep, I guess we're the old guys now," said Sheriff Howard Long, who is 61.

While the names and faces have changed, Bedford remains pretty much the same quiet town it was 30 years ago. There's no Wal-

Mart, and if you want a fast-food-chain restaurant, you have to drive to Carrollton or La Grange.

Between 1980 and 1990, Bedford's population dropped from 835 to 761. The county's population fell by 163, despite what many say is a housing boom in areas outside of Bedford.

"It's like most small towns," said state Sen. Rick Rand, who lives just outside town. "The people are friendly; they know who you are and what you stand for. . . . It's a good place for families."

The county has remained somewhat isolated, tucked away in a notch formed by the Ohio River.

In its isolation, Trimble County has been able to fend off the headaches that come with development.

There are no traffic problems, and the crime rate is low. Long will arrest a few people for drunken driving from time to time, especially in July when the Madison Regatta unlimited hydroplane races on the Ohio draw thongs of fans, But that's the extent of it.

"We might have 10 burglaries a year. We haven't had a murder here since 1965. There's just a lot of love, a lot of concern here," he said.

"It's the people, They're just good people," he said. "If you have a burnout or a flood, they'll take you clothes, food, . . . Well, they'll give you the shirt off their back."

Jim Black, Bedford's mayor for the past 14 years, said the city is on the move, despite appearances. He points out that Bedford built a new sewage treatment system about 10 years ago and is nearing completion of an $800,000 community center.

He hopes the community center will be a cultural and athletic center when it opens in April. There will be tennis and basketball courts and a stage, Black said the city will sponsor sports leagues and try to attract plays and performers from around the area.

"A women's singing group from Louisville, I think they're called the Sweet Adelines, called, and I think they said they're interested in doing a show here," he said.

"Right now, we're looking for a small motel to come in here. There's no place for people to stay when they visit."

Bedford is also planning to restore the freshwater spring that first attracted people to the area in the late 1700s and early 1800s.

Black and Long said they remember hauling buckets of water from the original Bedford Public Springs as children. In fact, some families used it as their primary source of water until the 1950s, said city clerk Paula Abrams.

Abrams said the city has applied for a $10,000 grant to reconstruct a stone spring house that the Works Progress Administration built during the administration of President Franklin Roosevelt. Bedford also plans a public park nearby.

But despite these projects, Black acknowledges that the town, on U.S. 42, has grown little since Interstate 71 was built south of town to carry traffic between Louisville and Cincinnati.

The interstate, completed in 1969, almost bypassed the entire county and diverted most of the traffic from U.S. 42 and Bedford. Long said about the only traffic the city sees now are the people traveling between Louisville and Madison, Ind., which is across the Ohio River from Trimble County.

"When they built the interstate to replace U.S. 42, the town receded. We're trying to keep it alive instead of dying completely," Black said.

Bedford was never a big town. In the early 1960s, the city depended on out-of-town motorists to help pay its bills.

It made national news in 1961 when the Louisville Automobile Association began warning drivers to avoid Bedford because it was a speed trap. A national magazine also carried a story about 72-year-old Bedford Marshal Harry Webster's penchant for catching lead-footed drivers.

Davis Venhoff, chairman of Bedford's board of trustees at the time, denied the city was a speed trap but said "strict traffic enforcement" was needed to balance the city's $13,000 budget.

Webster sometimes made up to 15 traffic stops a day, according to a story in The Louisville Times. Venhoff curtailed the practice. "If he gets to 10 a day now, he quits. We don't want any more than that," the article quoted Venhoff.

Sheriff Long said Webster "was a good man. Do you know in all the years he was the town marshal we didn't have a child run over or a kid killed by a car?"

Despite Bedford's safety record during those years, merchants complained that travelers were bypassing the town—and their businesses—to avoid the speed trap.

Bedford used to be a self-supporting community. People were born, reared and then made their lives there. Not anymore.

Don Alexander, 57, remembers that back in the 1940s, the town didn't have a drive-in movie theater; so a group of businesses got together to solve the problem.

"Every Friday, they showed free movies on the side of the courthouse," he said. Those movies would draw between 150 and 200 people driving everything from cars to horses and buggies.

Now, if people in Bedford want to see a movie, they drive to Louisville.

Many of the old businesses are gone. Some of them just closed; others were lost in fires that ravaged the city's business district several times over the years.

Bedford's only hotel burned several years ago, along with drugstores, furniture stores and restaurants.

There are few restaurants and only one grocery store if you discount gasoline stations that sell food. Shoppers who need more than the bare necessities must look elsewhere, including Louisville or Cincinnati.

"Recently, three or four ladies took off and went up to that big mall in Minneapolis," Black said. "We haven't done that yet, but I expect we'll do it this summer."

Some say Trimble County and Bedford need more business and industry if they want to thrive.

The county doesn't have an active chamber of commerce, and business and industry are so scarce that the state Cabinet for Economic Development doesn't even publish a fact book on the county, as it does for most of Kentucky's counties.

"I assume it's because they just don't have much there," said Randy Johann, who works for the Kentuckiana Regional Planning and Development Agency.

From almost anywhere in the county, a visitor can see the smoke and steam rising from the Louisville Gas & Electric Co.'s power plant on the Ohio River just north of Bedford. The plant, which went on line in late 1990, employs 131 people.

"If it wasn't for LG&E, this county would really be hurting," Harmon said.

Bob Yowler runs one of the town's businesses, Morgan's Drug Store. He bought Morgan's in 1983 when, after several years with a pharmacy chain, he decided to strike out on his own.

Yowler said he tried the town on for size for a short time, and when he found he liked it there, he packed up his family and moved them from Carrollton.

"You have to get your wife and kids to agree first, but that was pretty easy. Bedford's just a nice little town."

One thing he likes about Bedford is that it's a tight-knit community.

"This community is very supportive of all the local endeavors," he said. "There is a very strong local support of all the businesses."

The problem, he said, is that there aren't enough local endeavors. He worries that the best and brightest will move away as soon as they graduate from high school.

"There just aren't any jobs here," he said.

While no one believes that does the town's economy any good, some people look at it as a blessing.

"I guess that's the bittersweet thing—that people have to drive out to find new jobs," said Rand, who still works at the insurance agency his grandfather started in 1935 in Bedford.

"I don't know if I would consider it bad because you don't have the problems that you would associate with development."

It's ironic, Rand says, that the thing that makes people want to stay is the same thing that pushes them away.

"I like the rural atmosphere. I guess I spent the first 20 years of my life trying to figure out how to get out of here and the last 15 figuring out how to stay."

Yowler thinks there's a way to preserve the rural flavor and attract development, and he said the county is heading in that direction.

"I think slowly but surely it's changing. If we want to develop and change things so our kids can stay here, we've got to be willing to sacrifice some things. I think people are beginning to see that."

Population (1990): Bedford, 761; Trimble County, 6,090.

Per capita income (1990): Trimble, $14,087 or $878 below the state average.

Jobs (1991): Wholesale and retail trade, 88; service occupations 91; state and local government, 218; contract and construction, 36; manufacturing, 31; finance, insurance and real estate, 43.

Big employers (1992): Louisville Gas & Electric Co., 131 employees; Nugent Sand Co., 22; A-Square Co., 15–20.

Media: Newspaper—Trimble Banner-Democrat (weekly); Radio served by stations in Louisville, Carrollton, Shelbyville, Eminence and Madison, Ind. Television—Insight Cable, plus reception from Louisville, Cincinnati, Indianapolis and Lexington.

Transporation: Highways—U.S. 42, U.S. 421 and Ky. 36 are the main roads through the county. U.S. 421 provides easy access to Interstate 71, just south of Trimble County. Rail-CSX Transportation service is available seven miles away in Campbellsburg. Air-Commercial and passenger air service is available 43 miles away at Standiford Field in Louisville.

Education: Trimble County Schools, 1,195 students, students can also attend Carroll County Area Vocational Education Center. There are no colleges or universities in Trimble County but there are colleges, university and technical schools nearby in Louisville, Frankfort, Lexington, Ky., and in Hanover and Madison, Ind.

Topography: Trimble County covers 146 square miles of gently rolling land between Louisville and Cincinnati. The Ohio River forms the northern and western boundaries of the county.

FAMOUS FACTS AND FIGURES

The old stone jail, which sits behind the Trimble County Courthouse, was built

around 1850 and was used until 1983, its most prominent occupant was the abolitionist Della Webster, who spent time there in 1864. Sheriff Howard Long says, "It was built when jails were jails, and if you did something wrong once, you never wanted to do anything wrong again."

The county was named for Robert Trimble, the former state chief justice who was appointed to the U.S. Supreme Court in 1826 by President John Quincy Adams.

The Trimble County Courthouse was rebuilt in 1953 after a fire the previous year gutted the original building. The walls were torn down to the top of the first story and rebuilt from there. Volunteers and firemen saved the county's records from the flames and stored them at Mrs. Eugene Mosley's home across the street.

The old cannon on the courthouse lawn, which serves as a memorial to the county's servicemen, is pointed directly at the Bedford Loan and Deposit Bank. But don't get any ideas: the gun was rendered inoperable years ago.

When in Trimble County, you can read poetry in Milton, get sage advice at Wises Landing or even seek divine inspiration in Providence.

Trimble County is renowned for its orchards particularly the peach trees—that line U.S. 42.•

TRIBUTE TO LOUIS NAPOLEON SMITH

• Mr. BUMPERS. Mr. President, I rise today to recognize one of Arkansas' outstanding citizens, who, through his service has shown how much can be accomplished through hard work and compassion.

Louis Napoleon Smith, a lifetime resident of Arkansas, has served for 46 years as president of the Bethel African Methodist Episcopal Church lay. He has held many positions in the church: class leader, steward, trustee, secretary of the official board, secretary of the steward board, member of the A.C.E. League and, for the past 46 years, president of the lay organization.

Mr. Smith has served his church on the local, conference, and district levels in many capacities and with great distinction. He has been an inspiration to his church and community, and today I honor him for his dedication and commend him for his many contributions.•

C–17 ENGINEERING COSTS

• Mr. D'AMATO. Mr. President, I have been provided with a copy of a letter from Representative JOHN CONYERS, chairman of the House Government Operations Committee, to Secretary of Defense Les Aspin concerning a Department of Defense inspector general report on the C–17. Mr. CONYER's letter is nothing short of shocking. I ask that the full text of the letter be included in the RECORD as if read in its entirety.

The letter follows:

COMMITTEE ON
GOVERNMENT OPERATIONS,
Washington, DC, January 26, 1993.

Hon. LES ASPIN,
Secretary, Department of Defense,
Washington, DC.

DEAR MR. SECRETARY: Congratulations on your appointment as Secretary of Defense. We will miss your expertise here in the House, but your guidance and leadership are badly needed in the Pentagon.

I am sorry to start off my first correspondence to you with a monumental problem, but unfortunately that is the case. On February 21, 1992, I asked the Department of Defense Inspector General to investigate and document an allegation that I had made earlier as to favoritism and advantageous treatment of McDonnell Douglas by the Department of Defense. The report by the Inspector General is now in my hands.

For two years I have been asking Air Force and Defense Department personnel about these matters. On the one hand I am outraged by what I see in this report, and at the same time I am saddened by what I see as the betrayal of the trust placed in general officers of the military by the American people. The procurement system is badly damaged. But more important, the credibility and integrity of the services has been severely tarnished by the actions of these officers.

The IG's report and the investigation by the Legislation and National Security Subcommittee, which I chair, have confirmed our allegations. There was a concerted plan by the Pentagon to bail out its largest contractor.

The Inspector General of the Department of Defense has done an outstanding job in unravelling a very complex financial plan that was simply designed to get money to the contractor and cover-up the massive problems, both technical and financial that were mushrooming. This report shows large sums of money being paid to the contractor inappropriately, and possibly illegally, during a time when the financial condition of McDonnell Douglas was in a critical state. Other actions involved extraordinary measures taken with respect to contract "modifications" and "adjustments" that were clearly to the detriment of the taxpayer who, of course, is picking up the tab for this fiasco.

I will use excerpts from the report itself as often as possible to ensure that we are not misrepresenting the tone of the report. McDonnell Douglas is claiming that there is information in the report that are either trade secrets, or proprietary and confidential to the company. A more realistic assessment is that the information is incredibly embarrassing. While the Inspector General is challenging this assertion by the contractor, I will make every effort not to divulge material that may possibly be in that area. However, the disclosure of public funds flowing to the contractor, and the conduct of Air Force leaders, can in no way be claimed as proprietary information, and I will not treat it as such.

There is one comment in the Summary of Results that I will expand on later. It cuts to the heart of the acquisition system and to the integrity of the Air Force itself.

"Established Government oversight and internal management control processes, * * * which would have otherwise detected or prevented those actions, were impaired by Air Force officials. These officials provided incomplete and misleading information, and, in some cases, relied on *intimidation and abuse of their positions of responsibility to cause improper actions to be taken.*" (Emphasis added)

The report states that:

"Air Force officials implemented a plan of action to provide financial assistance to the Douglas Aircraft Company (DAC), a part of MDC, during August through December 1990 to ensure the contractor continued performance on the C–17 Program."

The results of these actions were astounding. The report continues:

"Expedited Government payments were made that exceeded appropriate amounts by $349 million. Financing provided also exceeded the fair value of undelivered work by an additional $92 million. Improper contracting actions reduced contractor financial risk on the C–17 Program by $1.6 billion and created a false appearance of success to facilitate both the contractor obtaining financing through commercial sources and issuance of debt securities, and the Air Force securing additional funding from Congress."

"The improper actions substantially increased Government program risk, provided premature payments to the contractor, negatively impacted first aircraft delivery, and contractually obligated the Government to award a subsequent Lot III production contract. Award of the Lot III production contract was particularly important because it provided an additional source of funding to the contractor, and a further false indication of program success. These actions also resulted in potential violations of statutes and acquisition regulations."

It is important to remember that at this very same time period the Navy A–12 program was also in serious trouble. It was later proven that there was also deception and misrepresentation of facts to the Secretary of Defense and to the Congress about the A–12. That program was cancelled in January 1991 after $2.6 billion had been spent. The contractors involved in the A–12 were McDonnell Douglas and General Dynamics. In February 1991, over $1.35 billion owed back to the Government by McDonnell Douglas and General Dynamics was deferred indefinitely by the Department of Defense. Although dividend payments have continuously been paid to the stockholders of both companies, no interest payments have ever been collected on the $1.35 billion debt.

The IG commented on the similarity between the two programs:

"We found numerous similarities between the management of the failed Navy A–12 Program and the Air Force C–17 Program during the fall of 1990. The Navy, however, conducted an administrative inquiry into the management of the A–12 Program while the Air Force, and in particular the General Counsel [Ann C. Peterson], and Assistant Secretary of the Air Force (Acquisition) [John J. Welch], refused to do so."

The report continues to document the breakdown of the entire acquisition system:

"The findings of our review reflect the failure and circumvention of management controls established within the DoD acquisition system. Management controls that would have otherwise been effective were circumvented through abuse of authority, resulting in inequitable treatment to the advantage of the contractor. Air Force officials, and in particular the SPD [System Program Director—Brigadier General Michael Butchko], acted to create an appearance of propriety for their actions, and plausible deniability for any accountability on their part."

"The SPD, with the assistance of the Deputy Comptroller of the Air Force Systems

Command, [Brigadier General John M. Nauseef] used his rank and position to direct or influence a wide range of improper actions. He was subsequently praised for his actions and promoted by the Air Force. Further, when the USD (A) [Under Secretary of Defense for Acquisition—Mr. John Betti] and the DoD Inspector General voiced concerns in the Spring of 1991 about the actions of the SPD, the Air Force summarily decided no further review of these matters was warranted. Conversely, the DPRO Commander [Defense Plant Representative Office Commander—Col. Kenneth Tollefson], an Air Force Colonel, acted to protect the Government interest and was criticized for not being a "team player." Eventually he paid a price in future assignments determined by the Air Force that, in part, resulted in his retirement decision."

The criticism of the DPRO Commander and his staff by the Program Office is highly unfortunate, for they appear to be the only major effort in the C–17 Program to do it right. One document provided by the DPRO cited within the report described a September 29, 1990 meeting as:

"'* * * we needed to get money to McDonnell Douglas in order to save the program. That was the focus of Gen. Butchko's efforts. We [the DPRO] were supposed to save the program by giving McDonnell Douglas the money they thought they deserved to continue the program * * *. The focus was to get cash and when regulations were brought up that prevented us from doing that, then the focus became how can we get around the regulation or get a waiver to the regulation.'"

The deception regarding this program goes farther then just Air Force officials:

"We consider the actions of BG Butchko, BG Nauseef, and Mrs. Druyun [Principal Assistant Deputy Chief to Staff, Air Force Systems Command] inappropriate. They acted in concert to influence the DPRO to make progress payments based on financial need * * *. The actions of those Air Force officials temporarily masked the actual financial condition of the contractor by permitting the contractor to defer recognition of a loss on the contract and retain excess unliquidated progress payments to which the contractor was not entitled and which should have been recouped * * *. Further, the actions, when considered together with modifying the 2108 contract on September 24, 1990 to establish a delivery schedule known to be unachievable * * * intentionally created an illusion of contractor stability and program success. Subsequently, on October 23, 1990, the DAC (Douglas Aircraft Company) reported as part of the third quarter 1990 financial results, that it expected to complete the contract without incurring a loss * * * rather than behind schedule and above ceiling price.

We intend that this matter be referred to the Securities and Exchange Commission for investigation.

In the hearing held by the Legislation and National Security Subcommittee in May 1992, it was alleged that on October 2, 1990, there was a demand by the Chairman of the McDonnell Douglas Corporation for approximately $500 million, or he would shut down the C–17 program. The DPRO commander testified that there was a commitment made to provide certain funds. The report addresses that situation as follows:

"According to three DPRO representatives at the briefing on October 4, 1990, BG Butchko stated that the Air Force had 'promised' the contractor $300 million in the month of Oct. 1990 * * * payments on order of $300 million in October were not possible."

The contractor and the Air Force went to great lengths to come up with schemes that would try to cover or justify their actions. One of the more original was the Monthly Estimate to Complete or "METC" system. This was invented to draw attention away from the negative historical information and try to focus on current performance.

This contractor proposal, approved by the Air Force, would use a measurement technique for a period as short as a month.

"As such, it provided no real basis for performance measurement and was merely a spending plan. To achieve adequate cost and schedule performance measurement, performance must be compared to the contract performance measurement baseline."

We believe that the contractor, with Air Force approval, devised the 'METC' approach as a subterfuge * * *. The METC technique was developed by the contractor at significant cost, with one estimate as high as $1 million."

"We believe BG Nauseef and BG Butchko understood fully that the METC process was flawed; however, they intended to use it to achieve their objective of increasing contractor cash flow."

As the report states, the briefing given by Brig. Gen. Nauseef and the Air Force to the Under Secretary of Defense for Acquisition on October 16, 1990 were collectively an attempt to defer reduction of any progress payments until after the end of the fiscal year. The report provides further that:

"We believe that the PEO (Program Executive Officer—Maj. Gen. Barry), who has overall cognizance for the C–17 Program, should have demanded that the SPD curtail his efforts to create a false appearance of success toward achieving the contractor EAC (Estimate at Completion) * * *. As a result, the contractor would have been paid the full amount of progress payments requested starting with the November 1, 1990 payment request, which included FSED (Full Scale Engineering Development) costs for which funds were previously not available to make payment."

This attempt by the Air Force and Douglas Aircraft Company also affected subsequent production lots. At the May 1992 hearing held by this subcommittee, we asked numerous questions about Lot III and Lot IV production contracts. The report shows that these contracts are clearly tainted:

"Agreement on the award of the Lot III contract would benefit the contractor by making additional funding available since long-lead funding was nearly exhausted, while providing another contract to shift engineering costs to as a result of the accounting practice change."

*"We believe the contractor reported the understated EAC as of September 29, 1990 in order to defer recognizing a loss on the 2108 contract in the company's third quarter financial reports, which recognized the 2108 contract as at or near break even after consideration of $125 million in claims yet to be submitted to the Government * * *. The deferral of loss recognition was particularly important to the contractor at this point because of the registration statement filed with the Securities and Exchange Commission on August 1, 1990 in order to obtain additional long term financing."* (Emphasis added)

The deception and manipulation by the senior officials in this matter is bad enough, but unfortunately it went even further:

"During his visit to the DPRO, BG Nauseef was viewed by DPRO personnel as using 'define intimidation' to encourage the DPRO to be a 'team player' and agree to the use of alternative means to measure contractor performance, specifically the 'METC' technique. One DPRO official provided the following description of how BG Nauseef handled opposition to the 'METC' technique by the DPRO Deputy Commander, an Air Force lieutenant colonel:

'I do remember General Nauseef saying, look, if you're not going to be a team player, Lieutenant Colonel, then just get out of here. You don't need to be in this meeting if you're not going to be a team player. It got a little tough.' "

Such conduct by senior officers is deplorable. The Defense Plant Representative, a colonel, stood up to the generals involved and was rewarded by being reassigned or being retired.

"One DPRO official commented that BG Butchko and BG Nauseef supported the 'METC' technique solely because it supported their objective of providing cash flow to the contractor, and if someone did not support the use of 'METC,' they were not a team player."

"The issue became not what EAC was supportable based on contractor progress, but rather what EAC would yield a particular payment to the contractor * * *. The persistence of BG Butchko and BG Nauseef directly influenced the resulting determination. For comparative purposes, had a $7.2 billion EAC been used, the contractor would have received $7.4 million instead of $59.2 million."

"We believe that the use of the $7.1 billion EAC rather than the higher EAC recommended by the EAC review team was a direct result of the actions of BG Butchko and BG Nauseef. We calculated for comparative purposes that implementation of the higher EAC * * * would have resulted in a payment of only about $18.4 million instead of the approximate $143.6 million actually paid * * *. The difference of over $125 million is significant when viewed in comparison to the MDC financial statements as of December 31, 1990, which reflect a total cash balance of $226 million."

Not only did all of these other methods provide cash to the contractor, but the Air Force also paid more frequently than allowed, resulting in the contractor receiving an extra progress payment before the end of 1990, also the company's fiscal year end. As the report states:

"* * * Air Force officials with no authority for administration of progress payments were working 'deals' with the contractor concerning what EAC would be used for progress payment purposes."

In addition elaborate steps were taken to ensure overruns were not paid for by the contractor, as they should be in a fixed price contract.

"At least $172 million, including $13 million for production of Lot III, that had been charged to the development portion of the contract from December 1988 to September 1990 was reallocated to production effort * * *. In essence, only the overrun on FSED was shifted to production. * * *"

"As of October 1990, the amount reallocated had increased to $184.5 million, including $14.9 million and $.5 million for long-lead requirements for Lot III and IV respectively. In July 1991, the long-lead requirements and corresponding contract prices were moved to a new production contract."

The action here that is so outrageous is that the contractor had exhausted the development funds and therefore was responsible for payment of any further costs. What happened is that these Senior Air Force officials took it upon themselves to transfer that shortage of funds to the taxpayer rather

than the contractor. That action is inexcusable. As before, it didn't stop there.

"We believe the October 1990 transition proposal for sustaining engineering costs from development to production lots and Air Force approval were only part of a far more reaching plan to circumvent internal controls and provide funding to the contractor * * *. Therefore, the chain of events was an attempt to postpone implementation of a substantially higher EAC until after the Lot III contract award, which was projected for December 1990.

"After contract award, the SPO could use an EAC computed in October 1990 or later that reflected the transition of sustaining engineering costs from development to production and request additional funding based on 'cost growth.' That course of action would open the use of expired appropriations to fund the cost growth on Lot III that was already known to exist prior to the planned contract award and would not require congressional approval because of 'cost growth.'"

By now you have the focus of the report.

I ask that you suspend this program now, if only to find out the true status of both the contracts and the aircraft structure. We will call for the immediate investigation of the McDonnell Douglas Corporation by the Securities and Exchange Commission into the financial reporting on this program.

I am also asking the Justice Department to reopen the criminal investigation into the C–17 program. When the Inspector General was asked during the May 13, 1992 hearing before my Subcommittee if the Air Force had hindered the criminal investigation, he stated:

"* * * Well, in effect that got us into a situation where we didn't have a victim. You can't have a crime without a victim or when there is a willing victim."

The Air Force refused to take exception to the deficiencies in the wings that were being discovered by the Defense Criminal Investigative Service and the FBI. Instead, they were very willing to accept whatever the contractor gave them. Remember, this is the same group of people running this program as is identified in the report.

Finally, I will ask for the prosecution of any individual involved in any criminal act in dealing with this program. I will also ask that you take appropriate measures to ensure that any wrongdoing is severely punished by those involved. The message must be clear that this conduct will not be tolerated. No program is so valuable as to be above the law, and no program is worth paying for with the integrity of the Armed Services.

Sincerely,

JOHN CONYERS, JR.,
Chairman.

There is little I can add. The Government Operations Committee and the DOD IG have done a magnificent job of revealing a conscious effort on the part of the Air Force to bail out the contractor. For me, the real question is, what has transpired since December 1990? How many more hundreds of millions of taxpayer dollars have been shoveled into the coffers of a contractor that has established a new standard of ineptitude?

The public release of the IG's report has been held up by a disagreement over contractor-sensitive information. This happened before. The IG's report, "Audit of Contractor Accounting Practice Changes for C–17 Engineering Costs," was initially scrubbed to protect proprietary information. As it happens, that information was eventually revealed to be the steps taken by the Air Force to bail out the contractor. I need not speculate as to what is happening this time.●

THE ARREST AND DETENTION OF THE TIRASPOL SIX

● Mr. DECONCINI. Mr. President, the flagrant disregard for human rights and international law that continues to devastate the former Yugoslavia has rightfully commanded the attention and outrage of the United States Congress and the American public. Tragically, however, contempt for human rights is not unique to the former Yugoslavia. Indeed, as Chairman of the Commission on Security and Cooperation in Europe—Helsinki Commission—an independent agency mandated to monitor and encourage compliance with the Helsinki accords, I fear that the situation in the former Yugoslavia is unique only to the degree to which the conflict has escalated to all-out war. Elsewhere in the CSCE region, similar patterns of violence simmer and erupt, and are often exploited by elements of an old elite unwilling to relinquish power.

One CSCE state recently menaced by confrontation is the Republic of Moldova. While most of Moldova is located between the Prut River on the west and the Dniestr River on the east, a small sliver of Moldova occupies part of the left bank of the Dniestr. Asserting that their human rights were being violated and claiming to fear reunification with Romania, the primarily Russian and former Communist political leadership of the left bank region proclaimed a "Dniestr Republic" and seceded from Moldova in early 1991. Armed clashes between Moldovan security forces and Transdniestrian "Republican Guards" broke out in November 1991. The latter were joined by units of the Russian 14th Army stationed in the Transdniestria region and Cossack volunteers from Ukraine and Russia. The conflict reached its most serious level in June 1992, when fighting took an estimated 1,000 lives, left approximately 5,000 wounded, and forced some 100,000 people from their homes.

The administration of Moldovan President Mircea Snegur, overwhelmed by the fire power posed against it, and with the world's attention concentrated elsewhere in Europe, has been forced to accept a Russian government-orchestrated truce that theoretically retains the left bank as part of Moldova, but with the Dniestr Republic intact.

At this time, Mr. President, I wish to alert my colleagues to the fate of six citizens of the Republic of Moldova: Ilie Ilascu, Alexandru Lesco, Andrei Ivantoc, Viaceslav Garbuz, Tudor Petrov, and Petru Godiac. These men are currently in prison, awaiting trial for the murders last spring of two local officials in the separatist Dniestr Republic. While not wishing to prejudge any legal proceeding, I believe the circumstances surrounding this case and the treatment of the detained men merit careful scrutiny from the human rights community worldwide. For this reason, Helsinki Commission Co-Chairman STENY HOYER and I sent a cable to the general procuror in Tiraspol, Boris Luchik, last December, urging humane treatment for the prisoners and immediate access by representatives of international organizations.

In January 1993, after receiving reports of serious human rights abuses being committed against the arrested individuals, a joint team of representatives from the International Human Rights Law Group and the Romanian Helsinki Committee traveled to Chisinau and Tiraspol to make inquiries regarding the arrest and to visit the men at the site of their detention in Tiraspol. While their efforts to visit the detainees were frustrated by the de facto authorities in Tiraspol, the fact-finding team was able to conduct a number of interviews including: Vasile Sturza, the adjunct public prosecutor for the Republic of Moldova; Alexandru Arsenti, the chairman of the Committee on Human Rights and National Relations of the Moldovan Parliament; Urie Rosca, first vice president of the Christian Democratic Popular Front; Stefan Uritu, one of those arrested with the Tiraspol Six and subsequently released; and several of the detainees' wives. The representative of the International Human Rights Law Group also met with Boris Luchik, the chief prosecutor of the de facto government, and with lawyers defending the detainees.

The conclusions of the joint fact-finding mission were the following:

Although the legal status of the so-called Dniestr Republic is unclear, it is purporting to invoke the rule of law, charging the Tiraspol Six under the Moldovan criminal code. The actions of the de facto authorities should therefore be judged according to the international standards of human rights;

The Tiraspol Six have been subjected to cruel psychological and physical abuse, including simulated executions and beatings;

The de facto authorities have limited the access of the Tiraspol Six to their lawyers, interfered with communication between lawyer and client, and used coercive methods of interrogation;

The conditions of the Tiraspol Six reportedly are abysmal, far below the international norms, and family visits have been unduly restricted;

The case against the Tiraspol Six appears to rely heavily on coerced confessions;

The families of those detained have been forced to flee a hostile environment encouraged by the de facto authorities who have fostered the impression that the guilt of the Tiraspol Six is foreordained.

As Chairman of the Helsinki Commission, I once again urge the authorities in Tiraspol to demonstrate their respect for international law by ensuring humane treatment for these detainees, including immediate access by representatives of international organizations. The Helsinki Commission will continue to follow this case with attention and concern, and I appeal to my colleagues to do the same.•

THE RULES OF PROCEDURE FOR THE COMMITTEE ON ARMED SERVICES

• Mr. NUNN. Mr. President, in accordance with rule XXVI(2) of the Standing Rules of the Senate, I submit the Rules of Procedure of the Committee on Armed Services for the 103d Congress, and I ask consent that they be printed in the RECORD.

The rules of the Armed Services Committee follow:

ARMED SERVICES COMMITTEE RULES OF PROCEDURE

(Adopted February 23, 1993)

1. *Regular Meeting Day and Time.* The regular meeting day of the committee shall be each Thursday at 10:00 a.m., unless the committee or the chairman directs otherwise.

2. *Additional Meetings.* The chairman may call such additional meetings as he deems necessary.

3. *Special Meetings.* Special meetings of the committee may be called by a majority of the members of the committee in accordance with paragraph 3 of Rule XXVI of the Standing Rules of the Senate.

4. *Open Meetings.* Each meeting of the committee, or any subcommittee thereof, including meetings to conduct hearings, shall be open to the public, except that a meeting or series of meetings by the committee or a subcommittee thereof on the same subject for a period of no more than fourteen (14) calendar days may be closed to the public on a motion made and seconded to go into closed session to discuss only whether the matters enumerated below in clauses (a) through (f) would require the meeting to be closed, followed immediately by a record vote in open session by a majority of the members of the committee or subcommittee when it is determined that the matters to be discussed or the testimony to be taken at such meeting or meetings—

(a) Will disclose matters necessary to be kept secret in the interests of national defense or the confidential conduct of the foreign relations of the United States;

(b) Will relate solely to matters of committee staff personnel or internal staff management or procedure;

(c) Will tend to charge an individual with a crime or misconduct, to disgrace or injure the professional standing of an individual, or otherwise to expose an individual to public contempt or obloquy or will represent a clearly unwarranted invasion of the privacy of an individual;

(d) Will disclose the identity of any informer or law enforcement agent or will disclose any information relating to the investigation or prosecution of a criminal offense that is required to be kept secret in the interests of effective law enforcement;

(e) Will disclose information relating to the trade secrets or financial or commercial information pertaining specifically to a given person if—

(1) An Act of Congress requires the information to be kept confidential by Government officers and employees; or

(2) The information has been obtained by the Government on a confidential basis, other than through an application by such person for a specific Government financial or other benefit, and is required to be kept secret in order to prevent undue injury to the competitive position of such person; or

(f) May divulge matters required to be kept confidential under other provisions of law or Government regulations.

5. *Presiding Officer.* The chairman shall preside at all meetings and hearings of the committee except that in his absence the ranking majority member present at the meeting or hearing shall preside unless by majority vote the committee provides otherwise.

6. *Quorum.* (a) A majority of the members of the committee are required to be actually present to report a matter or measure from the committee.

(b) Except as provided in subsections (a) and (c), and other than for the conduct of hearings, seven members of the committee shall constitute a quorum for the transaction of such business as may be considered by the committee.

(c) Three members of the committee, one of whom shall be a member of the minority party, shall constitute a quorum for the purpose of taking sworn testimony, unless otherwise ordered by a majority of the full committee.

(d) Proxy votes may not be considered for the purpose of establishing a quorum.

7. *Proxy Voting.* Proxy voting shall be allowed on all measures and matters before the committee. The vote by proxy of any member of the committee may be counted for the purpose of reporting any measure or matter to the Senate if the absent member casting such vote has been informed of the matter on which he is being recorded and has affirmatively requested that he be so recorded.

8. *Announcement of Votes.* The results of all rollcall votes taken in any meeting of the committee on any measure, or amendment thereto, shall be announced in the committee report, unless previously announced by the committee. The announcement shall include a tabulation of the votes cast in favor and votes cast in opposition to each such measure and amendment by each member of the committee who was present at such meeting. The chairman may hold open a rollcall vote on any measure or matter which is before the committee until no later than midnight of the day on which the committee votes on such measure or matter.

9. *Subpoenas.* Subpoenas for attendance of witnesses and for the production of memoranda, documents, records, and the like may be issued by the chairman or any other member designated by him, but only when authorized by a majority of the members of the committee. The subpoena shall briefly state the matter to which the witness is expected to testify or the documents to be produced.

10. *Hearings.* (a) Public notice shall be given of the date, place, and subject matter of any hearing to be held by the committee, or any subcommittee thereof, at least 1 week in advance of such hearing, unless the committee or subcommittee determines that good cause exists for beginning such hearings at an earlier time.

(b) Hearings may be initiated only by the specified authorization of the committee or subcommittee.

(c) Hearings shall be held only in the District of Columbia unless specifically authorized to be held elsewhere by a majority vote of the committee or subcommittee conducting such hearings.

(d) Witnesses appearing before the committee shall file with the clerk of the committee a written statement of his proposed testimony at least 24 hours not including weekends or holidays prior to a hearing at which he is to appear unless the chairman and the ranking minority member determines that there is good cause for the failure of the witness to file such a statement.

(e) Confidential testimony taken or confidential material presented in a closed hearing of the committee or subcommittee or any report of the proceedings of such hearing shall not be made public in whole or in part or by way of summary unless authorized by a majority vote of the committee or subcommittee.

(f) Any witness summoned to give testimony or evidence at a public or closed hearing of the committee or subcommittee may be accompanied by counsel of his own choosing who shall be permitted at all times during such hearing to advise such witness of his legal rights.

(g) Witnesses providing unsworn testimony to the committee may be given a transcript of such testimony for the purpose of making minor grammatical corrections. Such witnesses will not, however, be permitted to alter the substance of their testimony. Any question involving such corrections shall be decided by the chairman.

11. *Nominations.* Unless otherwise ordered by the committee, nominations referred to the committee shall be held for at least seven (7) days before being voted on by the committee. Each member of the committee shall be furnished a copy of all nominations referred to the committee.

12. *Real Property Transactions.* Each member of the committee shall be furnished with a copy of the proposals of the Secretaries of the Army, Navy, and Air Force, submitted pursuant to 10 U.S.C. 2662 and with a copy of the proposals of the Director of the Federal Emergency Management Agency, submitted pursuant to 50 U.S.C. App. 2285, regarding the proposed acquisition or disposition of property of an estimated price or rental of more than $50,000. Any member of the committee objecting to or requesting information on a proposed acquisition or disposal shall communicate his objection or request to the chairman of the committee within thirty (30) days from the date of submission.

13. *Legislative Calendar.* (a) The clerk of the committee shall keep a printed calendar for the information of each committee member showing the bills introduced and referred to the committee and the status of such bills. Such calendar shall be revised from time to time to show pertinent changes in such bills, the current status thereof, and new bills introduced and referred to the committee. A copy of each new revision shall be furnished to each member of the committee.

(b) Unless otherwise ordered, measures referred to the committee shall be referred by the clerk of the committee to the appropriate department or agency of the Government for reports thereon.

14. Except as otherwise specified herein, the Standing Rules of the Senate shall govern the actions of the committee. Each subcommittee of the committee is part of the committee, and is therefore subject to the committee's rules so far as applicable.

15. *Powers and Duties of Subcommittees.* Each subcommittee is authorized to meet, hold hearings, receive evidence, and report to the full committee on all matters referred to it. Subcommittee chairmen shall set dates for hearings and meetings of their respective subcommittee after consultation with the chairman and other subcommittee chairmen with a view toward avoiding simultaneous scheduling of full committee and subcommittee meetings or hearings whenever possible.●

RULES OF PROCEDURE OF THE COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

● Mr. RIEGLE. Mr. President, I ask that, pursuant to paragraph 2 of rule XXVI of the Standing Rules of the Senate, the rules of procedure of the Committee on Banking, Housing, and Urban Affairs adopted on January 21, 1993, be printed in the RECORD, as follows:

RULES OF PROCEDURE FOR THE COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

(Adopted in executive session, January 21, 1993)

RULE 1.—REGULAR MEETING DATE FOR COMMITTEE

The regular meeting day for the Committee to transact its business shall be the last Tuesday in each month that the Senate is in Session; except that if the Committee has met at any time during the month prior to the last Tuesday of the month, the regular meeting of the Committee may be canceled at the discretion of the Chairman.

RULE 2.—COMMITTEE

(a) *Investigations.*—No investigation shall be initiated by the Committee unless the Senate, or the full Committee, or the Chairman and Ranking Minority member has specifically authorized such investigation.

(b) *Hearings.*—No hearing of the Committee shall be scheduled outside the District of Columbia except by agreement between the Chairman of the Committee and the ranking minority member of the Committee or by a majority vote of the Committee.

(c) *Confidential testimony.*—No confidential testimony taken or confidential material presented at an executive session of the Committee or any report of the proceedings of such executive session shall be made public either in whole or in part by way of summary, unless specifically authorized by the Chairman of the Committee and the ranking minority member of the Committee or by a majority vote of the Committee.

(d) *Interrogation of witnesses.*—Committee interrogation of a witness shall be conducted only by members of the Committee or such professional staff as is authorized by the Chairman or the ranking minority member of the Committee.

(e) *Prior notice of markup sessions.*—No session of the Committee or a Subcommittee for marking up any measure shall be held unless (1) each member of the Committee or the Subcommittee, as the case may be, has been notified in writing of the date, time, and place of such session and has been furnished a copy of the measure to be considered at least 3 business days prior to the commencement of such session, or (2) the Chairman of the Committee or Subcommittee determines that exigent circumstances exist requiring that the session be held sooner.

(f) *Prior notice of first degree amendments.*—It shall not be in order for the Committee or a Subcommittee to consider any amendment in the first degree proposed to any measure under consideration by the Committee or Subcommittee unless (1) fifty written copies of such amendment have been delivered to the office of the Committee at least 2 business days prior to the meeting * * * This subsection may be waived by a majority of the members of the Committee or Subcommittee voting, or by agreement of the Chairman and Ranking Minority Member. This subsection shall apply only when at least 3 business days written notice of a session to mark up a measure is required to be given under subsection (3) of this rule.

(g) *Cordon rule.*—Whenever a bill or joint resolution repealing or amending any statute or part thereof shall be before the Committee or Subcommittee, from initial consideration in hearings through final consideration, the Clerk shall place before each member of the Committee or Subcommittee a print of the statute or the part or section thereof to be amended or repealed showing by stricken-through type, the part or parts to be omitted, and in italics, the matter proposed to be added. In addition, whenever a member of the Committee or Subcommittee offers an amendment to a bill or joint resolution under consideration, those amendments shall be presented to the Committee or Subcommittee in a like form, showing by typographical devices the effect of the proposed amendment on existing law. The requirements of this subsection may be waived when, in the opinion of the Committee or Subcommittee chairman, it is necessary to expedite the business of the Committee or Subcommittee.

RULE 3.—SUBCOMMITTEES

(a) *Authorization for.*—A Subcommittee of the Committee may be authorized only by the action of the majority of the Committee.

(b) *Membership.*—No member may be a member of more than three Subcommittees and no member may chair more than one Subcommittee. No member will receive assignment to a second Subcommittee until, in order of seniority, all members of the Committee have chosen assignments to one Subcommittee, and no member shall receive assignment to a third Subcommittee until, in order of seniority, all members have chosen assignments to two Subcommittees.

(c) *Investigations.*—No investigation shall be initiated by a Subcommittee unless the Senate or the full committee has specifically authorized such investigation.

(d) *Hearings.*—No hearing of a Subcommittee shall be scheduled outside the District of Columbia without prior consultation with the Chairman and then only by agreement between the Chairman of the Subcommittee and the ranking minority member of the Subcommittee or by a majority vote of the Subcommittee.

(e) *Confidential testimony.*—No confidential testimony taken or confidential material presented at an executive session of the Subcommittee or any report of the proceedings of such executive session shall be made public, either in whole or in part or by way of summary, unless specifically authorized by the Chairman of the Subcommittee and the ranking minority member of the Subcommittee, or by a majority vote of the Subcommittee.

(f) *Interrogation of witnesses.*—Subcommittee interrogation of a witness shall be conducted only by members of the Subcommittee or such professional staff as is authorized by the Chairman or the ranking minority member of the Subcommittee.

(g) *Special meetings.*—If at least three members of a Subcommittee desire that a special meeting of the Subcommittee be called by the Chairman of the Subcommittee, those members may file in the offices of the Committee their written request to the Chairman of the Subcommittee for that special meeting. Immediately upon the filing of the request, the Clerk of the Committee shall notify the Chairman of the Subcommittee of the filing of the request. If, within 3 calendar days after the filing of the request, the Chairman of the Subcommittee does not call the requested special meeting, to be held within 7 calendar days after the filing of the request, a majority of the members of the Subcommittee may file in the offices of the Committee their written notice that a special meeting of the Subcommittee will be held, specifying the date and hour of that special meeting. The Subcommittee shall meet on that date and hour. Immediately upon the filing of the notice, the Clerk of the Committee shall notify all members of the Subcommittee that such special meeting will be held and inform them of its date and hour. If the Chairman of the Subcommittee is not present at any regular or special meeting of the Subcommittee, the ranking member of the majority party on the Subcommittee who is present shall preside at that meeting.

(h) *Voting.*—No measure or matter shall be recommended from a Subcommittee to the Committee unless a majority of the Subcommittee are actually present. The vote of the Subcommittee to recommend a measure or matter of the Committee shall require the concurrence of a majority of the members of the Subcommittee voting. On Subcommittee matters other than a vote to recommend a measure or matter to the Committee no record vote shall be taken unless a majority of the Subcommittee is actually present. Any absent member of a Subcommittee may affirmatively request that his or her vote to recommend a measure or matter to the Committee or his vote on any such other matters on which a record vote is taken, be cast by proxy. The proxy shall be in writing and shall be sufficiently clear to identify the subject matter and to inform the Subcommittee as to how the member wishes his or her vote to be recorded thereon. By written notice to the Chairman of the Subcommittee any time before the record vote on the measure or matter concerned is taken, the member may withdraw a proxy previously given. All proxies shall be kept in the files of the Committee.

RULE 4.—WITNESSES

(a) *Filing of statements.*—Any witness appearing before the Committee or Subcommittee (including any witness representing a Government agency) must file with the Committee or Subcommittee (24 hours preceding his or her appearance) 120 copies of his statement to the Committee or Subcommittee, and the statement must include a brief summary of the testimony. In the event that the witness fails to file a written statement and brief summary in accordance with this rule, the Chairman of the Committee or Subcommittee has the discretion to deny the witness the privilege of testifying before the Committee or Subcommittee until the witness has properly complied with the rule.

(b) *Length of statements.*—Written statements properly filed with the Committee or Subcommittee may be as lengthy as the witness desires and may contain such documents or other addenda as the witness feels is necessary to present properly his or her views to the Committee or Subcommittee. The brief summary included in the statement must be no more than 3 pages long. It shall be left to the discretion of the Chairman of the Committee or Subcommittee as to what portion of the documents presented to the Committee or Subcommittee shall be published in the printed transcript of the hearings.

(c) *Ten-minute duration.*—Oral statements of witnesses shall be based upon their filed statements but shall be limited to 10 minutes duration. This period may be limited or extended at the discretion of the Chairman presiding at the hearings.

(d) *Subpoena of witnesses.*—Witnesses may be subpoenaed by the Chairman of the Committee or a Subcommittee with the agreement of the ranking minority member of the Committee or Subcommittee or by a majority vote of the Committee or Subcommittee.

(e) *Counsel permitted.*—Any witness subpoenaed by the Committee or Subcommittee to a public or executive hearing may be accompanied by counsel of his or her own choosing who shall be permitted, while the witness is testifying, to advise him or her of his or her legal rights.

(f) *Expenses of witnesses.*—No witness shall be reimbursed for his or her appearance at a public or executive hearing before the Committee or Subcommittee unless such reimbursement is agreed to by the Chairman and ranking minority Member of the Committee.

(g) *Limits of questions.*—Questioning of a witness by members shall be limited to 5 minutes duration when 5 or more members are present and 10 minutes duration when less than 5 members are present, except that if a member is unable to finish his or her questioning in this period, he or she may be permitted further questions of the witness after all members have been given an opportunity to question the witness.

Additional opportunity to question a witness shall be limited to a duration of 5 minutes until all members have been given the opportunity of questioning the witness for a second time. This 5-minute period per member will be continued until all members have exhausted their questions of the witness.

RULE 5.—VOTING

(a) *Vote to report a measure or matter.*—No measure or matter shall be reported from the Committee unless a majority of the Committee is actually present. The vote of the Committee to report a measure or matter shall require the concurrence of a majority of the members of the Committee who are present.

Any absent member may affirmatively request that his or her vote to report a matter be cast by proxy. The proxy shall be sufficiently clear to identify the subject matter, and to inform the Committee as to how the member wishes his vote to be recorded thereon. By written notice to the Chairman any time before the record vote on the measure or matter concerned is taken, any member may withdraw a proxy previously given. All proxies shall be kept in the files of the Committee, along with the record of the rollcall vote of the members present and voting, as an official record of the vote on the measure or matter.

(b) *Vote on matters other than to report a measure or matter.*—On Committee matters other than a vote to report a measure or matter, no record vote shall be taken unless a majority of the Committee are actually present. On any such other matter, a member of the Committee may request that his or her vote may be cast by proxy. The proxy shall be in writing and shall be sufficiently clear to identify the subject matter, and to inform the Committee as to how the matter wishes his or her vote to be recorded thereon. By written notice to the Chairman any time before the vote on such other matter is taken, the member may withdraw a proxy previously given. All proxies relating to such other matters shall be kept in the files of the Committee.

RULE 6.—QUORUM

No executive session of the Committee or a Subcommittee shall be called to order unless a majority of the Committee or Subcommittee, as the case may be, are actually present. Unless the Committee otherwise provides or is required by the Rules of the Senate, one member shall constitute a quorum for the receipt of evidence, the swearing in of witnesses, and the taking of testimony.

RULE 7.—STAFF PRESENT ON DAIS

Only members and the Clerk of the Committee shall be permitted on the dais during public or executive hearings, except that a member may have one staff person accompany him or her during such public or executive hearing on the dais. If a member desires a second staff person to accompany him or her on the dais he or she must make a request to the Chairman for that purpose.

RULE 8.—COINAGE LEGISLATION

At least 40 Senators must cosponsor any gold medal or commemorative coin bill or resolution before consideration by the Committee.

EXTRACTS FROM THE STANDING RULES OF THE SENATE

RULE XXV, STANDING COMMITTEES

1. The following standing committees shall be appointed at the commencement of each Congress, and shall continue and have the power to act until their successors are appointed, with leave to report by bill or otherwise on matters within their respective jurisdictions:

(d)(1) Committee on Banking, Housing, and Urban Affairs, to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating to the following subjects:

1. Banks, banking, and financial institutions.
2. Control of prices of commodities, rents, and services.
3. Deposit insurance.
4. Economic stabilization and defense production.
5. Export and foreign trade promotion.
6. Export controls.
7. Federal monetary policy, including Federal Reserve System.
8. Financial aid to commerce and industry.
9. Issuance and redemption of notes.
10. Money and credit, including currency and coinage.
11. Nursing home construction.
12. Public and private housing (including veterans' housing).
13. Renegotiation of Government contracts.
14. Urban development and urban mass transit.

(2) Such committee shall also study and review, on a comprehensive basis, matters relating to international economic policy as it affects United States monetary affairs, credit, and financial institutions; economic growth, urban affairs, and credit, and report thereon from time to time.●

RULES OF THE SELECT COMMITTEE ON INTELLIGENCE

● Mr. DECONCINI. Mr. President, paragraph 2 of Senate rule XXVI requires that not later than March 1 of the first year of each Congress, the rules of each committee be published in the RECORD.

In compliance with this provision, I ask that the Rules of the Select Committee on Intelligence be printed in the RECORD.

The rules of the select committee follow:

RULES OF PROCEDURE FOR THE SELECT COMMITTEE ON INTELLIGENCE

(Adopted June 23, 1976)

(Amended October 24, 1990)

(Amended February 1993)

RULE 1. CONVENING OF MEETINGS

1.1. The regular meeting day of the Select Committee on Intelligence for the transaction of Committee business shall be every other Wednesday of each month, unless otherwise directed by the Chairman.

1.2. The Chairman shall have authority, upon proper notice, to call such additional meetings of the Committee as he may deem necessary and may delegate such authority to any other member of the Committee.

1.3. A special meeting of the Committee may be called at any time upon the written request of five or more members of the Committee filed with the Clerk of the Committee.

1.4. In the case of any meeting of the Committee, other than a regularly scheduled meeting, the Clerk of the Committee shall notify every member of the Committee of the time and place of the meeting and shall give reasonable notice which, except in extraordinary circumstances, shall be at least 24 hours in advance of any meeting held in Washington, D.C. and at least 48 hours in the case of any meeting held outside Washington, D.C.

1.5. If five members of the Committee have made a request in writing to the Chairman to call a meeting of the Committee, and the Chairman fails to call such a meeting within seven calendar days thereafter, including the day on which the written notice is submitted, these members may call a meeting by filing a written notice with the Clerk of the Committee who shall promptly notify each member of the Committee in writing of the date and time of the meeting.

RULE 2. MEETING PROCEDURES

2.1. Meetings of the Committee shall be open to the public except as provided in S. Res. 9, 94th Congress, 1st Session.

2.2. It shall be the duty of the Staff Director to keep or cause to be kept a record of all Committee proceedings.

2.3. The Chairman of the Committee, or if the Chairman is not present the Vice Chairman, shall preside over all meetings of the Committee. In the absence of the Chairman and the Vice Chairman at any meeting the ranking majority member, or if no majority member is present the ranking minority member present shall preside.

2.4. Except as otherwise provided in these Rules, decisions of the Committee shall be by majority vote of the members present and voting. A quorum for the transaction of Committee business, including the conduct

of executive sessions, shall consist of five committee members, except that for the purpose of hearing witnesses, taking sworn testimony, and receiving evidence under oath, a quorum may consist of one Senator.

2.5. A vote by any member of the Committee with respect to any measure or matter being considered by the Committee may be cast by proxy if the proxy authorization (1) is in writing; (2) designates the member of the Committee who is to exercise the proxy; and (3) is limited to a specific measure or matter and any amendments pertaining thereto. Proxies shall not be considered for the establishment of a quorum.

2.6. Whenever the Committee by roll call vote reports any measure or matter, the report of the Committee upon such measure or matter shall include a tabulation of the votes cast in favor of and the votes cast in opposition to such measure or matter by each member of the Committee.

RULE 3. SUBCOMMITTEES

Creation of subcommittees shall be by majority vote of the Committee. Subcommittees shall deal with such legislation and oversight of programs and policies as the Committee may direct. The subcommittees shall be governed by the Rules of the Committee and by such other rules they may adopt which are consistent with the Rules of the Committee.

RULE 4. REPORTING OF MEASURES OR RECOMMENDATIONS

4.1. No measures or recommendations shall be reported, favorably or unfavorably, from the Committee unless a majority of the Committee is actually present and a majority concur.

4.2. In any case in which the Committee is unable to reach a unanimous decision, separate views or reports may be presented by any member or members of the Committee.

4.3. A member of the Committee who gives notice of his intention to file supplemental, minority, or additional views at the time of final Committee approval of a measure or matter, shall be entitled to not less than three working days in which to file such views, in writing with the Clerk of the Committee. Such views shall then be included in the Committee report and printed in the same volume, as a part thereof, and their inclusion shall be noted on the cover of the report.

4.4. Routine, non-legislative actions required of the Committee may be taken in accordance with procedures that have been approved by the committee pursuant to these Committee Rules.

RULE 5. NOMINATIONS

5.1. Unless otherwise ordered by the Committee, nominations referred to the Committee shall be held for at least 14 days before being voted on by the Committee.

5.2. Each member of the Committee shall be promptly furnished a copy of all nominations referred to the Committee.

5.3. Nominees who are invited to appear before the Committee shall be heard in public session, except as provided in Rule 2.1.

5.4. No confirmation hearing shall be held sooner than seven days after receipt of the background and financial disclosure statement unless the time limit is waived by a majority vote of the Committee.

5.5. The Committee vote on the confirmation shall not be sooner than 48 hours after the Committee has received transcripts of the confirmation hearing unless the time limit is waived by unanimous consent of the Committee.

5.6. No nomination shall be reported to the Senate unless the nominee has filed a background and financial disclosure statement with the Committee.

RULE 6. INVESTIGATIONS

No investigation shall be initiated by the Committee unless at least five members of the Committee have specifically requested the Chairman or the Vice Chairman to authorize such an investigation. Authorized investigations may be conducted by members of the Committee and/or designated Committee staff members.

RULE 7. SUBPOENAS

Subpoenas authorized by the Committee for the attendance of witnesses or the production of memoranda, documents, records or any other material may be issued by the Chairman, the Vice Chairman, or any member of the Committee designated by the Chairman, Vice Chairman or member issuing the subpoenas. Each subpoena shall have attached thereto a copy of S. Res. 400, 94th Congress, 2nd Session and a copy of these rules.

RULE 8. PROCEDURES RELATED TO THE TAKING OF TESTIMONY

8.1 NOTICE.—Witnesses required to appear before the Committee shall be given reasonable notice and all witnesses shall be furnished a copy of these Rules.

8.2 OATH OR AFFIRMATION.—Testimony of witnesses shall be given under oath or affirmation which may be administered by any member of the Committee.

8.3 INTERROGATION.—Committee interrogation shall be conducted by members of the Committee and such Committee staff as are authorized by the Chairman, Vice Chairman, or the presiding member.

8.4 COUNSEL FOR THE WITNESS.—(a) Any witness may be accompanied by counsel. A witness who is unable to obtain counsel may inform the Committee of such fact. If the witness informs the Committee of this fact at least 24 hours prior to his or her appearance before the Committee, the Committee shall then endeavor to obtain voluntary counsel for the witness. Failure to obtain such counsel will not excuse the witness from appearing and testifying.

(b) Counsel shall conduct themselves in an ethical and professional manner. Failure to do so shall, upon a finding to that effect by a majority of the members present, subject such counsel to disciplinary action which may include warning, censure, removal, or a recommendation of contempt proceedings.

(c) There shall be no direct or cross-examination by counsel. However, counsel may submit in writing any question he wishes propounded to his client or to any other witness and may, at the conclusion of his client's testimony, suggest the presentation of other evidence or the calling of other witnesses. The Committee may use such questions and dispose of such suggestions as it deems appropriate.

8.5 STATEMENTS BY WITNESSES.—A witness may make a statement, which shall be brief and relevant, at the beginning and conclusion of his or her testimony. Such statements shall not exceed a reasonable period of time as determined by the Chairman, or other presiding members. Any witness desiring to make a prepared or written statement for the record of the proceedings shall file a copy with the Clerk of the Committee, and insofar as practicable and consistent with the notice given, shall do so at least 72 hours in advance of his or her appearance before the Committee.

8.6 OBJECTIONS AND RULINGS.—Any objection raised by a witness or counsel shall be ruled upon by the Chairman or other presiding member, and such ruling shall be the ruling of the Committee unless a majority of the Committee present overrules the ruling of the chair.

8.7 INSPECTION AND CORPORATION.—All witnesses testifying before the Committee shall be given a reasonable opportunity to inspect, in the office of the Committee, the transcript of their testimony to determine whether such testimony was correctly transcribed. The witness may be accompanied by counsel. Any corrections the witness desires to make in the transcript shall be submitted in writing to the Committee within five days from the date when the transcript was made available to the witness. Corrections shall be limited to grammar and minor editing, and may not be made to change the substance of the testimony. Any questions arising with respect to such corrections shall be decided by the Chairman. Upon request, those parts of testimony given by a witness in executive session which are subsequently quoted or made part of a public record shall be made available to that witness at his or her expense.

8.8 REQUESTS TO TESTIFY.—The Committee will consider requests to testify on any matter or measure pending before the Committee. A person who believes that testimony or other evidence presented at a public hearing, or any comment made by a Committee member or a member of the Committee staff may tend to affect adversely his or her reputation, may request to appear personally before the Committee to testify on his or her own behalf, or may file a sworn statement of facts relevant to the testimony, evidence, or comment, or may submit to the Chairman proposed questions in writing for the cross-examination of other witnesses. The Committee shall take such action as it deems appropriate.

8.9 CONTEMPT PROCEDURES.—No recommendation that a person be cited for contempt of Congress shall be forwarded to the Senate unless and until the Committee has, upon notice to all its members, met and considered the alleged contempt, afforded the person an opportunity to state in writing or in person why he or she should not be held in contempt, and agreed, by majority vote of the Committee to forward such recommendation to the Senate.

8.10 RELEASE OF NAME OF WITNESS.—Unless authorized by the Chairman, the name of any witness scheduled to be heard by the Committee shall not be released prior to, or after, his or her appearance before the Committee.

RULE 9. PROCEDURES FOR HANDLING CLASSIFIED OR SENSITIVE MATERIAL

9.1 Committee staff offices shall operate under strict precautions. At least one security guard shall be on duty at all times by the entrance to control entry. Before entering the office all persons shall identify themselves.

9.2 Sensitive or classified documents and material shall be segregated in a secure storage area. They may be examined only at secure reading facilities. Copying, duplicating, or removal from the Committee offices of such documents and other materials is prohibited except as is necessary for use in, or preparation for, interviews or Committee meetings, including the taking of testimony, and in conformity with Section 10.3 hereof. All documents or materials removed from the Committee offices for such authorized purposes must be returned to the Committee's secure storage area for overnight storage.

9.3 Each member of the Committee shall at all times have access to all papers and other

material received from any source. The Staff Director shall be responsible for the maintenance, under appropriate security procedures, of a registry which will number and identify all classified papers and other classified materials in the possession of the Committee, and such registry shall be available to any member of the Committee.

9.4 Whenever the Select Committee on Intelligence makes classified material available to any other Committee of the Senate or to any member of the Senate not a member of the Committee, such material shall be accompanied by a verbal or written notice to the recipients advising of their responsibility to protect such material pursuant to section 8 of S. Res. 400 of the 94th Congress. The Clerk of the Committee shall ensure that such notice is provided and shall maintain a written record identifying the particular information transmitted and the Committee or members of the Senate receiving such information.

9.5 Access to classified information supplied to the Committee shall be limited to those Committee staff members with appropriate security clearance and a need-to-know, as determined by the Committee, and, under the Committee's direction, the Staff Director and Minority Staff Director.

9.6 No member of the Committee or of the Committee staff shall disclose, in whole or in part or by way of summary, to any person not a member of the Committee or the Committee staff for any purpose or in connection with any proceeding, judicial or otherwise, any testimony given before the Committee in executive session including the name of any witness who appeared or was called to appear before the Committee in executive session, or the contents of any papers or materials or other information received by the Committee except as authorized herein, or otherwise as authorized by the Committee in accordance with Section 8 of S. Res. 400 of the 94th Congress and the provisions of these rules, or in the event of the termination of the Committee, in such a manner as may be determined by the Senate. For purposes of this paragraph, members and staff of the Committee may disclose classified information in the possession of the Committee only to persons with appropriate security clearances who have a need to know such information for an official governmental purpose related to the work of the Committee. Information discussed in executive sessions of the Committee and information contained in papers and materials which are not classified but which are controlled by the Committee may be disclosed only to persons outside the Committee who have a need to know such information for an official governmental purpose related to the work of the Committee and only if such disclosure has been authorized by the Chairman and Vice Chairman of the Committee, or by the Staff Director and Minority Staff Director, acting on their behalf. Failure to abide by this provision shall constitute grounds for referral to the Select Committee on Ethics pursuant to Section 8 of S. Res. 400.

9.7 Before the Committee makes any decision regarding the disposition of any testimony, papers, or other materials presented to it, the Committee members shall have a reasonable opportunity to examine all pertinent testimony, papers, and other materials that have been obtained by the members of the Committee or the Committee staff.

9.8 Attendance of persons outside the Committee at closed meetings of the Committee shall be kept at a minimum and shall be limited to persons with appropriate security clearance and a need-to-know the information under consideration for the execution of their official duties. Notes taken at such meetings by any person in attendance shall be returned to the secure storage area in the Committee's offices at the conclusion of such meetings, and may be made available to the department, agency, office, committee or entity concerned only in accordance with the security procedures of the Committee.

RULE 10. STAFF

10.1 For purposes of these rules, Committee staff includes employees of the Committee, employees of the Members of the Committee assigned to the Committee, consultants to the Committee, or any other person engaged by contract or otherwise to perform services for or at the request of the Committee. To the maximum extent practicable, the Committee shall rely on its full-time employees to perform all staff functions. No individual may be retained as staff of the Committee or to perform services for the Committee unless that individual holds appropriate security clearances.

10.2 The appointment of Committee staff shall be confirmed by a majority vote of the Committee. After confirmation, the Chairman shall certify Committee staff appointments to the Financial Clerk of the Senate in writing. No Committee staff shall be given access to any classified information or regular access to the Committee offices, until such Committee staff has received an appropriate security clearance as described in Section 6 of Senate Resolution 400 of the 94th Congress.

10.3 The Committee staff works for the Committee as a whole, under the general supervision of the Chairman and Vice Chairman of the Committee. Except as otherwise provided by the Committee, the duties of Committee staff shall be performed, and Committee staff personnel affairs and day-to-day operations, including security and control of classified documents and material, shall be administered under the direct supervision and control of the Staff Director. The Minority Staff Director and the Minority Counsel shall be kept fully informed regarding all matters and shall have access to all material in the files of the Committee.

10.4 The Committee staff shall assist the minority as fully as the majority in the expression of minority views, including assistance in the preparation and filing of additional, separate and minority views, to the end that all points of view may be fully considered by the Committee and the Senate.

10.5 The members of the Committee staff shall not discuss either the substance or procedure of the work of the Committee with any person not a member of the Committee or the Committee staff for any purpose or in connection with any proceeding, judicial or otherwise, either during their tenure as a member of the Committee staff at any time thereafter except as directed by the Committee in accordance with Section 8 of S. Res. 400 of the 94th Congress and the provisions of these rules, or in the event of the termination of the Committee, in such a manner as may be determined by the Senate.

10.6 No member of the Committee staff shall be employed by the Committee unless and until such a member of the Committee staff agrees in writing, as a condition of employment to abide by the conditions of the nondisclosure agreement promulgated by the Senate Select Committee on Intelligence, pursuant to Section 6 of S. Res. 400 of the 94th Congress, 2d Session, and to abide by the Committee's code of conduct.

10.7 No member of the Committee staff shall be employed by the Committee unless and until such a member of the Committee staff agrees in writing, as a condition of employment, to notify the Committee or in the event of the Committee's termination the Senate of any request for his or her testimony, either during his tenure as a member of the Committee staff or at any time thereafter with respect to information which came into his or her possession by virtue of his or her position as a member of the Committee staff. Such information shall not be disclosed in response to such requests except as directed by the Committee in accordance with Section 8 of S. Res. 400 of the 94th Congress and the provisions of these rules, or in the event of the termination of the Committee, in such manner as may be determined by the Senate.

10.8 The Committee shall immediately consider action to be taken in the case of any member of the Committee staff who fails to conform to any of these Rules. Such disciplinary action may include, but shall not be limited to, immediate dismissal from the Committee staff.

10.9 Within the Committee staff shall be an element with the capability to perform audits of programs and activities undertaken by departments and agencies with intelligence functions. Such element shall be comprised of persons qualified by training and/or experience to carry out such functions in accordance with accepted auditing standards.

10.10 The workplace of the Committee shall be free from illegal use, possession, sale or distribution of controlled substances by its employees. Any violation of such policy by any member of the Committee staff shall be grounds for termination of employment. Further, any illegal use of controlled substances by a member of the Committee staff, within the workplace or otherwise, shall result in reconsideration of the security clearance of any such staff member and may constitute grounds for termination of employment with the Committee.

10.11 In accordance with title III of the Civil Rights Act of 1991 (P.L. 102-166), all personnel actions affecting the staff of the Committee shall be made free from any discrimination based on race, color, religion, sex, national origin, age, handicap or disability.

RULE 11. PREPARATION FOR COMMITTEE MEETINGS

11.1 Under direction of the Chairman and the Vice Chairman, designated Committee staff members shall brief members of the Committee at a time sufficiently prior to any Committee meeting to assist the Committee members in preparation for such meeting and to determine any matter which the Committee member might wish considered during the meeting. Such briefing shall, at the request of a member, include a list of all pertinent papers and other materials that have been obtained by the Committee that bear on matters to be considered at the meeting.

11.2 The Staff Director shall recommend to the Chairman and the Vice Chairman the testimony, papers, and other materials to be presented to the Committee at any meeting. The determination whether such testimony, papers, and other materials shall be presented in open or executive session shall be made pursuant to the Rules of the Senate and Rules of the Committee.

11.3 The Staff Director shall ensure that covert action programs of the U.S. Government receive appropriate consideration by the Committee no less frequently than once a quarter.

RULE 12. LEGISLATIVE CALENDAR

12.1 The Clerk of the Committee shall maintain a printed calendar for the information of each Committee member showing the measures introduced and referred to the Committee and the status of such measures; nominations referred to the Committee and their status; and such other matters as the Committee determines shall be included. The Calendar shall be revised from time to time to show pertinent changes. A copy of each such revision shall be furnished to each member of the Committee.

12.2 Unless otherwise ordered, measures referred to the Committee shall be referred by the Clerk of the Committee to the appropriate department or agency of the Government for reports thereon.

RULE 13. COMMITTEE TRAVEL

13.1 No member of the Committee or Committee Staff shall travel abroad on Committee business unless specifically authorized by the Chairman and Vice Chairman. Requests for authorization of such travel shall state the purpose and extent of the trip. A full report shall be filed with the Committee when travel is completed.

13.2 When the Chairman and the Vice Chairman approve the foreign travel of a member of the Committee staff not accompanying a member of the Committee, all members of the Committee are to be advised, prior to the commencement of such travel, of its extent, nature and purpose. The report referred to in Rule 13.1 shall be furnished to all members of the Committee and shall not be otherwise disseminated without the express authorization of the Committee pursuant to the Rules of the Committee.

13.3 No member of the Committee staff shall travel within this country on Committee business unless specifically authorized by the Staff Director as directed by the Committee.

RULE 14. CHANGES IN RULES

These Rules may be modified, amended, or repealed by the Committee, provided that a notice in writing of the proposed change has been given to each member at least 48 hours prior to the meeting at which action thereon is to be taken.

APPENDIX A

[94th Congress, 2d Session]

S. RES. 400

[Report No. 94-675]

[Report No. 94-770]

In the Senate of the United States

MARCH 1, 1976

Mr. MANSFIELD (for Mr. RIBICOFF) (for himself, Mr. CHURCH, Mr. PERCY, Mr. BAKER, Mr. BROCK, Mr. CHILES, Mr. GLENN, Mr. HUDDLESTON, Mr. JACKSON, Mr. JAVITS, Mr. MATHIAS, Mr. METCALF, Mr. MONDALE, Mr. MORGAN, Mr. MUSKIE, Mr. NUNN, Mr. ROTH, Mr. SCHWEIKER, and Mr. WEICKER) submitted the following resolution; which was referred to the Committee on Government Operations.

MAY 19, 1976

Considered, amended, and agreed to

Resolution to establish a standing committee of the Senate on Intelligence, and for other purposes

Resolved, That it is the purpose of this resolution to establish a new select committee of the Senate, to be known as the Select Committee on Intelligence, to oversee and make continuing studies of the intelligence activities and programs of the United States Government, and to submit to the Senate appropriate proposals for legislation and report to the Senate concerning such intelligence activities and programs. In carrying out this purpose, the Select Committee on Intelligence shall make every effort to assure that the appropriate departments and agencies of the United States provide informed and timely intelligence necessary for the executive and legislative branches to make sound decisions affecting the security and vital interests of the Nation. It is further the purpose of this resolution to provide vigilant legislative oversight over the intelligence activities of the United States to assure that such activities are in conformity with the Constitution and laws of the United States.

SEC. 2. (a)(1) There is hereby established a select committee to be known as the Select Committee on Intelligence (hereinafter in this resolution referred to as the "select committee"). The select committee shall be composed of fifteen members appointed as follows:

(A) two members from the Committee on Appropriations;

(B) two members from the Committee on Armed Services;

(C) two members from the Committee on Foreign Relations;

(D) two members from the Committee on the Judiciary; and

(E) seven members to be appointed from the Senate at large.

(2) Members appointed from each committee named in clauses (A) through (D) of paragraph (1) shall be evenly divided between the two major political parties and shall be appointed by the President pro tempore of the Senate upon the recommendations of the majority and minority leaders of the Senate. Four of the members appointed under clause (E) of paragraph (1) shall be appointed by the President pro tempore of the Senate upon the recommendation of the majority leader of the Senate and three shall be appointed by the President pro tempore of the Senate upon the recommendation of the minority leader of the Senate.

(3) The majority leader of the Senate and the minority leader of the Senate shall be ex officio members of the select committee but shall have no vote in the committee and shall not be counted for purposes of determining a quorum.

(b) No Senator may serve on the select committee for more than eight years of continuous service, exclusive of service by any Senator on such committee during the Ninety-fourth Congress. To the greatest extent practicable, one-third of the Members of the Senate appointed to the select committee at the beginning of the Ninety-seventh Congress and each Congress thereafter shall be Members of the Senate who did not serve on such committee during the preceding Congress.

(c) At the beginning of each Congress, the Members of the Senate who are members of the majority party of the Senate shall elect a chairman for the select committee, and the Members of the Senate who are from the minority party of the Senate shall elect a vice chairman for such committee. The vice chairman shall act in the place and stead of the chairman in the absence of the chairman. Neither the chairman nor the vice chairman of the select committee shall at the same time serve as chairman or ranking minority member of any other committee referred to in paragraph 4(e)(1) of rule XXV of the Standing Rules of the Senate.

SEC. 3. (a) There shall be referred to the select committee all proposed legislation, messages, petitions, memorials, and other matters relating to the following:

(1) The Central Intelligence Agency and the Director of Central Intelligence.

(2) Intelligence activities of all other departments and agencies of the Government, including, but not limited to, the intelligence activities of the Defense Intelligence Agency, the National Security Agency, and other agencies of the Department of Defense; the Department of State; the Department of Justice; and the Department of the Treasury.

(3) The organization or reorganization of any department or agency of the Government to the extent that the organization or reorganization relates to a function or activity involving intelligence activities.

(4) Authorizations for appropriations, both direct and indirect, for the following:

(A) The Central Intelligence Agency and Director of Central Intelligence.

(B) The Defense Intelligence Agency.

(C) The National Security Agency.

(D) The intelligence activities of other agencies and subdivisions of the Department of Defense.

(E) The intelligence activities of the Department of State.

(F) The intelligence activities of the Federal Bureau of Investigation, including all activities of the Intelligence Division.

(G) Any department, agency, or subdivision which is the successor to any agency named in clause (A), (B), or (C); and the activities of any department, agency, or subdivision which is the successor to any department, agency, bureau, or subdivision named in clause (D), (E), or (F) to the extent that the activities of such successor department, agency, or subdivision are activities described in clause (D), (E), or (F).

(b) Any proposed legislation reported by the select committee, except any legislation involving matters specified in clause (1) or (4)(A) of subsection (a), containing any matter otherwise within the jurisdiction of any standing committee shall, at the request of the chairman of such standing committee, be referred to such standing committee for its consideration of such matter and be reported to the Senate by such standing committee within thirty days after the day on which such proposed legislation is referred to such standing committee; and any proposed legislation reported by any committee, other than the select committee, which contains any matter within the jurisdiction of the select committee shall, at the request of the chairman of the select committee, be referred to the select committee for its consideration of such matter and be reported to the Senate by the select committee within thirty days after the day on which such proposed legislation is referred to such committee. In any case in which a committee fails to report any proposed legislation referred to it within the time limit prescribed herein, such committee shall be automatically discharged from further consideration of such proposed legislation on the thirtieth day following the day on which such proposed legislation is referred to such committee unless the Senate provides otherwise. In computing any thirty-day period under this paragraph there shall be excluded from such computation any days on which the Senate is not in session.

(c) Nothing in this resolution shall be construed as prohibiting or otherwise restricting the authority of any other committee to study and review any intelligence activity to the extent that such activity directly affects a matter otherwise within the jurisdiction of such committee.

(d) Nothing in this resolution shall be construed as amending, limiting, or otherwise changing the authority of any standing committee of the Senate to obtain full and prompt access to the product of the intelligence activities of any department or agency of the Government relevant to a matter otherwise within the jurisdiction of such committee.

SEC. 4. (a) The select committee, for the purposes of accountability to the Senate, shall make regular and periodic reports to the Senate on the nature and extent of the intelligence activities of the various departments and agencies of the United States. Such committee shall promptly call to the attention of the Senate or to any other appropriate committee or committees of the Senate any matters requiring the attention of the Senate or such other committee or committees. In making such report, the select committee shall proceed in a manner consistent with section 8(c)(2) to protect national security.

(b) The select committee shall obtain an annual report from the Director of the Central Intelligence Agency, the Secretary of Defense, the Secretary of State, and the Director of the Federal Bureau of Investigation. Such reports shall review the intelligence activities of the agency or department concerned and the intelligence activities of foreign countries directed at the United States or its interest. An unclassified version of each report may be made available to the public at the discretion of the select committee. Nothing herein shall be construed as requiring the public disclosure in such reports of the names of individuals engaged in intelligence activities for the United States or the divulging of intelligence methods employed or the sources of information on which such reports are based or the amount of funds authorized to be appropriated for intelligence activities.

(c) On or before March 15 of each year, the select committee shall submit to the Committee on the Budget of the Senate the views and estimates described in section 301(c) of the Congressional Budget Act of 1974 regarding matters within the jurisdiction of the select committee.

SEC. 5. (a) For the purposes of this resolution, the select committee is authorized in its discretion (1) to make investigations into any matter within its jurisdiction, (2) to make expenditures from the contingent fund of the Senate, (3) to employ personnel, (4) to hold hearings, (5) to sit and act at any time or place during the sessions, recesses, and adjourned periods of the Senate, (6) to require, by subpoena or otherwise, the attendance of witnesses and the production of correspondence, books, papers, and documents, (7) to take depositions and other testimony, (8) to procure the service of individual consultants or organizations thereof, in accordance with the provisions of section 202(i) of the Legislative Reorganization Act of 1946, and (9) with the prior consent of the government department or agency concerned and the Committee on Rules and Administration, to use on a reimbursable basis the services of personnel of any such department or agency.

(b) The chairman of the select committee or any member thereof may administer oaths to witnesses.

(c) Subpoenas authorized by the select committee may be issued over the signature of the chairman, the vice chairman or any member of the select committee designated by the chairman, and may be served by any person designated by the chairman or any member signing the subpoenas.

SEC. 6. No employee of the select committee or any person engaged by contract or otherwise to perform services for or at the request of such committee shall be given access to any classified information by such committee unless such employee or person has (1) agreed in writing and under oath to be bound by the rules of the Senate (including the jurisdiction of the Select Committee on Standards and Conduct[1] and of such committee as to the security of such information during and after the period of his employment or contractual agreement with such committee; and (2) received an appropriate security clearance as determined by such committee in consultation with the Director of Central Intelligence. The type of security clearance to be required in the case of any such employee or person shall, within the determination of such committee in consultation with the Director of Central Intelligence, be commensurate with the sensitivity of the classified information to which such employee or person will be given access by such committee.

SEC. 7. The select committee shall formulate and carry out such rules and procedures as it deems necessary to prevent the disclosure, without the consent of the person or persons concerned, of information in the possession of such committee which unduly infringes upon the privacy or which violates the constitutional rights of such person or persons. Nothing herein shall be construed to prevent such committee from publicly disclosing any such information in any case in which such committee determines the national interest in the disclosure of such information clearly outweighs any infringement on the privacy of any person or persons.

SEC. 8. (a) The select committee may, subject to the provisions of this section, disclose publicly any information in the possession of such committee after a determination by such committee that the public interest would be served by such disclosure. Whenever committee action is required to disclose any information under this section, the committee shall meet to vote on the matter within five days after any member of the committee requests such a vote. No member of the select committee shall disclose any information, the disclosure of which requires a committee vote, prior to a vote by the committee on the question of the disclosure of such information or after such vote except in accordance with this section.

(b)(1) In any case in which the select committee votes to disclose publicly any information which has been classified under established security procedures, which has been submitted to it by the executive branch, and which the executive branch requests be kept secret, such committee shall notify the President of such vote.

(2) The select committee may disclose publicly such information after the expiration of a five-day period following the day on which notice of such vote is transmitted to the President, unless, prior to the expiration of such five-day period, the President, personally in writing, notifies the committee that he objects to the disclosure of such information, provides his reasons therefor, and certifies that the threat to the national interest of the United States posed by such disclosure is of such gravity that it outweighs any public interest in the disclosure.

(3) If the President, personally in writing, notifies the select committee of his objections to the disclosure of such information as provided in paragraph (2), such committee may, by majority vote, refer the question of the disclosure of such information to the Senate for consideration. The committee shall not publicly disclose such information without leave of the Senate.

(4) Whenever the select committee votes to refer the question of disclosure of any information to the Senate under paragraph (3), the chairman shall not later than the first day on which the Senate is in session following the day on which the vote occurs, report the matter to the Senate for its consideration.

(5) One hour after the Senate convenes on the fourth day on which the Senate is in session following the day on which any such matter is reported to the Senate, or at such earlier time as the majority leader and the minority leader of the Senate jointly agree upon in accordance with paragraph 5 of rule XVII of the Standing Rules of the Senate, the Senate shall go into closed session and the matter shall be the pending business. In considering the matter in closed session the Senate may—

(A) approve the public disclosure of all or any portion of the information in question, in which case the committee shall publicly disclose the information ordered to be disclosed,

(B) disapprove the public disclosure of all or any portion of the information in question, in which case the committee shall not publicly disclose the information ordered not to be disclosed, or

(C) refer all or any portion of the matter back to the committee, in which case the committee shall make the final determination with respect to the public disclosure of the information in question.

Upon conclusion of the consideration of such matter in closed session, which may not extend beyond the close of the ninth day on which the Senate is in session following the day on which such matter was reported to the Senate, or the close of the fifth day following the day agreed upon jointly by the majority and minority leaders in accordance with paragraph 5 of rule XVII of the Standing Rules of the Senate (whichever the case may be), the Senate shall immediately vote on the disposition of such matter in open session, without debate, and without divulging the information with respect to which the vote is being taken. The Senate shall vote to dispose of such matter by one or more of the means specified in clauses (A), (B), and (C) of the second sentence of this paragraph. Any vote of the Senate to disclose any information pursuant to this paragraph shall be subject to the right of a Member of the Senate to move for reconsideration of the vote within the time and pursuant to the procedures specified in rule XIII of the Standing Rules of the Senate, and the disclosure of such information shall be made consistent with that right.

(c)(1) No information in the possession of the select committee relating to the lawful intelligence activities of any department or agency of the United States which has been classified under established security procedures and which the select committee, pursuant to subsection (a) or (b) of this section, has determined should not be disclosed, shall be made available to any person by a Member, officer, or employee of the Senate except in a closed session of the Senate or as provided in paragraph (2).

(2) The select committee may, under such regulations as the committee shall prescribe to protect the confidentiality of such infor-

[1] Name changed to the Select Committee on Ethics by S. Res. 4, 95-1, Feb. 4, 1977.

mation, make any information described in paragraph (1) available to any other committee or any other Member of the Senate. Whenever the select committee makes such information available, the committee shall keep a written record showing, in the case of any particular information, which committee or which Members of the Senate received such information. No Member of the Senate who, and no committee which, receives any information under this subsection, shall disclose such information except in a closed session of the Senate.

(d) It shall be the duty of the Select Committee on Standards and Conduct[1] to investigate any unauthorized disclosure of intelligence information by a Member, officer or employee of the Senate in violation of subsection (c) and to report to the Senate concerning any allegation which it finds to be substantiated.

(e) Upon the request of any person who is subject to any such investigation, the Select Committee on Standards and Conduct[1] shall release to such individual at the conclusion of its investigation a summary of its investigation together with its findings. If, at the conclusion of its investigation, the Select Committee on Standards and Conduct[1] determines that there has been a significant breach of confidentiality or unauthorized disclosure by a Member, officer, or employee of the Senate, it shall report its findings to the Senate and recommend appropriate action such as censure, removal from committee membership, or expulsion from the Senate, in the case of a Member, or removal from office or employment or punishment for contempt, in the case of an officer or employee.

SEC. 9. The select committee is authorized to permit any personal representative of the President, designated by the President to serve as a liaison to such committee, to attend any closed meeting of such committee.

SEC. 10. Upon expiration of the Select Committee on Governmental Operations With Respect to Intelligence Activities, established by Senate Resolution 21, Ninety-fourth Congress, all records, files, documents, and other materials in the possession, custody, or control of such committee, under appropriate conditions established by it, shall be transferred to the select committee.

SEC. 11. (a) It is the sense of the Senate that the head of each department and agency of the United States should keep the select committee fully and currently informed with respect to intelligence activities, including any significant anticipated activities, which are the responsibility of or engaged in by such department or agency. *Provided*, That this does not constitute a condition precedent to the implementation of any such anticipated intelligence activity.

(b) It is the sense of the Senate that the head of any department or agency of the United States involved in any intelligence activities should furnish any information or document in the possession, custody, or control of the department or agency, or person paid by such department or agency, whenever requested by the select committee with respect to any matter within such committee's jurisdiction.

(c) It is the sense of the Senate that each department and agency of the United States should report immediately upon discovery to the select committee any and all intelligence activities which constitute violations of the constitutional rights of any person, violations of law, or violations of Executive orders, presidential directives, or departmental or agency rules or regulations; each department and agency should further report to such committee what actions have been taken or are expected to be taken by the departments or agencies with respect to such violations.

SEC. 12. Subject to the Standing Rules of the Senate, no funds shall be appropriated for any fiscal year beginning after September 30, 1976, with the exception of a continuing bill or resolution, or amendment thereto, or conference report thereon, to, or for use of, any department or agency of the United States to carry out any of the following activities, unless such funds shall have been previously authorized by a bill or joint resolution passed by the Senate during the same or preceding fiscal year to carry out such activity for such fiscal year:

(1) The activities of the Central Intelligence Agency and the Director of Central Intelligence.

(2) The activities of the Defense Intelligence Agency.

(3) The activities of the National Security Agency.

(4) The intelligence activities of other agencies and subdivisions of the Department of Defense.

(5) The intelligence activities of the Department of State.

(6) The intelligence activities of the Federal Bureau of Investigation, including all activities of the Intelligence Division.

SEC. 13. (a) The select committee shall make a study with respect to the following matters, taking into consideration with respect to each such matter, all relevant aspects of the effectiveness of planning, gathering, use, security, and dissemination of intelligence:

(1) the quality of the analytical capabilities of United States foreign intelligence agencies and means for integrating more closely analytical intelligence and policy formulation;

(2) the extent and nature of the authority of the departments and agencies of the executive branch to engage in intelligence activities and the desirability of developing charters for each intelligence agency or department;

(3) the organization of intelligence activities in the executive branch to maximize the effectiveness of the conduct, oversight, and accountability of intelligence activities; to reduce duplication or overlap; and to improve the morale of the personnel of the foreign intelligence agencies;

(4) the conduct of covert and clandestine activities and the procedures by which Congress is informed of such activities;

(5) the desirability of changing any law, Senate rule or procedure, or any Executive order, rule, or regulation to improve the protection of intelligence secrets and provide for disclosure of information for which there is no compelling reason for secrecy;

(6) the desirability of establishing a standing committee of the Senate on intelligence activities;

(7) the desirability of establishing a joint committee of the Senate and the House of Representatives on intelligence activities in lieu of having separate committees in each House of Congress, or of establishing procedures under which separate committees on intelligence activities of the two Houses of Congress would receive joint briefings from the intelligence agencies and coordinate their policies with respect to the safeguarding of sensitive intelligence information;

(8) the authorization of funds for the intelligence activities of the Government and whether disclosure of any of the amounts of such funds is in the public interest; and

(9) the development of a uniform set of definitions for terms to be used in policies or guidelines which may be adopted by the executive or legislative branches to govern, clarify, and strengthen the operation of intelligence activities.

(b) The select committee may, in its discretion, omit from the special study required by this section any matter it determines has been adequately studied by the Select Committee To Study Governmental Operations With Respect to Intelligence Activities, established by Senate Resolution 21, Ninety-fourth Congress.

(c) The select committee shall report the results of the study provided for by this section to the Senate, together with any recommendations for legislative or other actions it deems appropriate, no later than July 1, 1977, and from time to time thereafter as it deems appropriate.

SEC. 14. (a) As used in this resolution, the term "intelligence activities" includes (1) the collection, analysis, production, dissemination, or use of information which relates to any foreign country, or any government, political group, party, military force, movement, or other association in such foreign country, and which relates to the defense, foreign policy, national security, or related policies of the United States, and other activity which is in support of such activities; (2) activities taken to counter similar activities directed against the United States; (3) covert or clandestine activities affecting the relations of the United States with any foreign government, political group, party, military force, movement or other association; (4) the collection, analysis, production, dissemination, or use of information about activities of persons within the United States, its territories and possessions, or nationals of the United States abroad whose political and related activities pose, or may be considered by any department, agency, bureau, office, division, instrumentality, or employee of the United States to pose, a threat to the internal security of the United States and covert or clandestine activities directed against such persons. Such term does not include tactical foreign military intelligence serving no national policymaking function.

(b) As used in this resolution, the term "department or agency" includes any organization, committee, council, establishment, or office within the Federal Government.

(c) For purposes of this resolution, reference to any department, agency, bureau, or subdivision shall include a reference to any successor department, agency, bureau, or subdivision to the extent that such successor engages in intelligence activities now conducted by the department, agency, bureau, or subdivision referred to in this resolution.

SEC. 15. (This section authorized funds for the select committee for the period May 19, 1976, through Feb. 28, 1977.)

SEC. 16. Nothing in this resolution shall be construed as constituting acquiescence by the Senate in any practice, or in the conduct of any activity, not otherwise authorized by law.

APPENDIX B

[94th Congress, 1st Session]

S. RES. 9

In the Senate of the United States

JANUARY 15, 1975

Mr. CHILES (for himself, Mr. ROTH, Mr. BIDEN, Mr. BROCK, Mr. CHURCH, Mr. CLARK, Mr. CRANSTON, Mr. HATFIELD, Mr.

FATHAWAY, Mr. HUMPHREY, Mr. JAVITS, Mr. JOHNSTON, Mr. MCGOVERN, Mr. METCALF, Mr. MONDALE, Mr. MUSKIE, Mr. PACKWOOD, Mr. PERCY, Mr. PROXMIRE, Mr. STAFFORD, Mr. STEVENSON, Mr. TAFT, Mr. WEICKER, Mr. BUMPERS, Mr. STONE, Mr. CULVER, Mr. FORD, Mr. HART of Colorado, Mr. LAXALT, Mr. NELSON, and Mr. HASKELL) introduced the following resolution; which was read twice and referred to the Committee on Rules and Administration.

Resolution amending the rules of the Senate relating to open committee meetings

Resolved, That paragraph 7(b) of rule XXV of the Standing Rules of the Senate is amended to read as follows;

"(b) Each meeting of a standing, select, or special committee of the Senate, or any subcommittee thereof, including meetings to conduct hearings, shall be open to the public, except that a portion or portions of any such meeting may be closed to the public if the committee or subcommittee, as the case may be, determines by record vote of a majority of the members of the committee or subcommittee present that the matters to be discussed or the testimony to be taken at such portion or portions—

"(1) will disclose matters necessary to be kept secret in the interests of national defense or the confidential conduct of the foreign relations of the United States;

"(2) will relate solely to matters of committee staff personnel or internal staff management or procedure;

"(3) will tend to charge an individual with crime or misconduct, to disgrace or injure the professional standing of an individual, or otherwise to expose an individual to public contempt or obloquy, or will represent a clearly unwarranted invasion of the privacy of an individual;

"(4) will disclose the identity of any informer or law enforcement agent or will disclose any information relating to the investigation or prosecution of a criminal offense that is required to be kept secret in the interests of effective law enforcement; or

"(5) will disclose information relating to the trade secrets or financial or commercial information pertaining specifically to a given person if—

"(A) an Act of Congress requires the information to be kept confidential by Government officers and employees; or

"(B) the information has been obtained by the Government on a confidential basis, other than through an application by such person for a specific Government financial or other benefit, and is required to be kept secret in order to prevent undue injury to the competitive position of such person.

Whenever any hearing conducted by any such committee or subcommittee is open to the public, that hearing may be broadcast by radio or television, or both, under such rules as the committee or subcommittee may adopt."

SEC. 2. Section 133A(b) of the Legislative Reorganization Act of 1946, section 242(a) of the Legislative Reorganization Act of 1970, and section 102 (d) and (e) of the Congressional Budget Act of 1974 are repealed.•

REMOVING THE TAX-EXEMPT BOND CAP FOR HIGH-SPEED RAIL PROJECTS

• Mr. MACK. Mr. President, last year, I supported legislation put forth by Senator Steve Symms to remove the tax-exempt bond cap for high speed rail projects. Unfortunately his attempts to get this legislation passed were unsuccessful. I believe removing the volume cap requirement for tax-exempt bonds issued to finance high-speed rail could have had a dramatic impact on our future transportation policy. I am happy to once again rise in support of this legislation introduced today by my colleague from Florida, Senator BOB GRAHAM.

The exemption from the volume cap to finance transportation systems is not a new concept. Currently, airports and seaports are exempted from the State activity bond cap simply because they are too expensive to fit under any State cap. For precisely the same reason, high-speed rail tax-exempt bonds must be exempted from the cap. I ask that my colleagues join in support of this legislation.•

BLACK HISTORY

• Mr. SARBANES. Mr. President, since 1926 this Nation has designated February as the month to honor the contributions of African-Americans and their proud heritage, which has so powerfully enriched this Nation. It was in that year that Dr. Carter G. Woodson, the father of black history, conceived the idea of a week in February to pay homage to African-American citizens.

As it does each year, the Association for the Study of Afro-American Life and History has selected a theme for the Black History Month celebration. Its theme for 1993 is, "Afro-American Scholars: Leaders, Activists, and Writers." In light of this theme, I want to pay tribute to a few of the many outstanding black leaders, activists, and writers from Maryland.

As Black History Month, this year, follows immediately on the death of a man many consider to be one of the most important black Americans of this century, it is appropriate to comment on the life and achievements of Supreme Court Justice Thurgood Marshall. Raised in Baltimore, he unyieldingly pursued a commitment to equal justice under the law for all citizens. As an important leader in the civil rights movement, the successful lawyer of the 1954 case, Brown versus the Board of Education, the prevailing litigator in 29 out of 32 cases before the Supreme Court, U.S. Solicitor General and the first black Supreme Court Justice, Thurgood Marshall had a profound influence on American life.

African-Americans from Maryland were also at the forefront of the civil rights movement during the 19th century, and I shall mention two who made singular contributions. As you know, Frederick Douglass, born on Maryland's Eastern Shore in 1818, was a leading abolitionist of his time. At the age of 19, he escaped from slavery and went on to become founder and editor of the North Star, an abolitionist newspaper. Mr. Douglass, an extraordinary speaker and author with an international reputation as an advocate for civil liberties, served as an advisor to President Abraham Lincoln during the Civil War and as United States Minister to the Republic of Haiti.

Harriet Tubman, often called "Moses," was born in Dorchester County, MD in 1820. After escaping from slavery in 1849, she became the leading conductor on the "underground railroad," assisting more than 300 men, women, and children in obtaining their freedom. Harriet Tubman was an inspiring spokesperson for civil rights. Her bravery was further demonstrated during the Civil War when she served as both a nurse and a spy for the Union. She detailed these many accomplishments in her memoirs, "Harriet the Moses of Her People."

African-American scholars from Maryland have also distinguished themselves during this century with creative and valuable contributions to society. Born in Baltimore, Countee Cullen was such a scholar. As a prize-winning poet, he thrived during the "Harlem Renaissance," an era beginning in the 1920's. Countee Cullen used his talents boldly to promote black culture and to reflect the black experience.

African-Americans from Maryland have worked hard to overcome racism and persevered to achieve significant firsts. Juanita Jackson Mitchell, civil rights activist, was the first African-American on the law review journal of the University of Maryland and later became the first African-American woman to practice law in the State of Maryland. As an attorney for the NAACP, she labored tirelessly to integrate the schools in our State and argued many of the landmark desegregation cases in Baltimore. Another remarkable advocate for civil rights who lead by example, Enolia P. McMillan worked for 42 years in the Maryland school system. She was the first president of the Maryland NAACP and the first woman president of the National NAACP.

Maryland is very proud of these great men and women and their accomplishments. They have succeeded against enormous odds and through their triumphs have provided inspiration for all. Further, their courage and conviction to fight against the injustices of racism have changed this Nation forever. Their achievements challenge us to carry on their work and to ensure that these gains are never lost.•

RULES OF PROCEDURE OF THE SENATE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS OF THE COMMITTEE ON GOVERNMENTAL AFFAIRS

• Mr. GLENN. Mr. President, I herewith submit a copy of rules of procedure adopted by the Subcommittee on Investigations of the Committee on Governmental Affairs, pursuant to the Standing Rules of the Senate and ask that they be printed in the RECORD at this point.

The rules of procedure follow:

RULES OF PROCEDURE FOR THE SENATE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS OF THE COMMITTEE ON GOVERNMENTAL AFFAIRS AS ADOPTED, FEBRUARY 22, 1993

1. No public hearing connected with an investigation may be held without the approval of either the Chairman and the ranking minority Member or the approval of a majority of the Members of the Subcommittee. In all cases, notification to all Members of the intent to hold hearings must be given at least 7 days in advance to the date of the hearing. The ranking minority Member should be kept fully apprised of preliminary inquiries, investigations, and hearings. Preliminary inquiries may be initiated by the Subcommittee majority staff upon the approval of the Chairman and notice of such approval to the ranking minority Member or the minority counsel. Preliminary inquiries may be undertaken by the minority staff upon the approval of the ranking minority Member and notice of such approval to the Chairman or Chief Counsel. Investigations may be undertaken upon the approval of the Chairman of the Subcommittee and the ranking minority Member with notice of such approval to all Members.

No public hearing shall be held if the minority Members unanimously object, unless the full Committee on Governmental Affairs by a majority vote approves of such public hearing.

Senate Rules 25(5)(b) will govern all closed sessions convened by the Subcommittee.

2. Subpoenas for witnesses, as well as documents and records, may be authorized and issued by the Chairman, or any other Member of the Subcommittee designated by him, with notice to the ranking minority Member. A written notice of intent to issue a subpoena shall be provided to the Chairman and ranking minority Member of the Committee, or staff officers designated by them, by the Subcommittee Chairman or a staff officer designated by him, immediately upon such authorization, and no subpoena shall issue for at least 48 hours, excluding Saturdays and Sundays, from delivery to the appropriate offices, unless the Chairman and ranking minority Member waive the 48-hour waiting period or unless the Subcommittee Chairman certifies in writing to the Chairman and ranking minority Member that, in his opinion, it is necessary to issue a subpoena immediately.

3. The Chairman shall have the authority to call meetings of the Subcommittee. This authority may be delegated by the Chairman to any other Member of the Subcommittee when necessary.

4. If at least three Members of the Subcommittee desire the Chairman to call a special meeting, they may file in the office of the Subcommittee, a written request therefor, addressed to the Chairman. Immediately thereafter, the clerk of the Subcommittee shall notify the Chairman of such request. If, within 3 calendar days after the filing of such request, the Chairman fails to call the requested special meeting, which is to be held within 7 calendar days after the filing of such request, a majority of the Subcommittee Members may file in the office of the Subcommittee their written notice that a special Subcommittee meeting will be held, specifying the date and hour thereof, and the Subcommittee shall meet on that date and hour. Immediately upon the filing of such notice, the Subcommittee clerk shall notify all Subcommittee Members that such special meeting will be held and inform them of its date and hour. If the Chairman is not present at any regular, additional or special meeting, the ranking majority Member present shall preside.

5. For public or executive sessions, one Member of the Subcommittee shall constitute a quorum for the administering of oaths and the taking of testimony in any given case or subject matter.

Five (5) Members of the Subcommittee shall constitute a quorum for the transaction of Subcommittee business other than the administering of oaths and the taking of testimony.

6. All witnesses at public or executive hearings who testify to matters of fact shall be sworn.

7. If, during public or executive sessions, a witness, his counsel, or any spectator conducts himself in such a manner as to prevent, impede, disrupt, obstruct, or interfere with the orderly administration of such hearing, the Chairman or presiding Member of the Subcommittee present during such hearing may request the Sergeant at Arms of the Senate, his representative or any law enforcement official to eject said person from the hearing room.

8. Counsel retained by any witness and accompanying such witness shall be permitted to be present during the testimony of such witness at any public or executive hearing, and to advise such witness while he is testifying, of his legal rights, Provided, however, that in the case of any witness who is an officer or employee of the government, or of a corporation or association, the Subcommittee Chairman may rule that representation by counsel from the government, corporation, or association, or by counsel representing other witnesses, creates a conflict of interest, and that the witness may only be represented during interrogation by staff or during testimony before the Subcommittee by personal counsel not from the government, corporation, or association, or by personal counsel not representing other witnesses. This rule shall not be construed to excuse a witness from testifying in the event his counsel is ejected for conducting himself in such a manner so as to prevent, impede, disrupt, obstruct, or interfere with the orderly administration of the hearings; nor shall this rule be construed as authorizing counsel to coach the witness or answer for the witness. The failure of any witness to secure counsel shall not excuse such witness from complying with a subpoena or deposition notice.

9. Depositions.

9.1 Notice. Notices for the taking of depositions in an investigation authorized by the Subcommittee shall be authorized and issued by the Chairman. The Chairman of the full Committee and the ranking minority Member of the Subcommittee shall be kept fully apprised of the authorization for the taking of depositions. Such notices shall specify a time and place of examination, and the name of the Subcommittee Member or Members or staff officer or officers who will take the deposition. The deposition shall be in private. The Subcommittee shall not initiate procedures leading to criminal or civil enforcement proceedings for a witness' failure to appear unless the deposition notice was accompanied by a Subcommittee subpoena.

9.2 Counsel. Witnesses may be accompanied at a deposition by counsel to advise them of their legal rights, subject to the provisions of Rule 8.

9.3 Procedure. Witnesses shall be examined upon oath administered by an individual authorized by local law to administer oaths. Questions shall be propounded orally by Subcommittee Members or staff. Objections by the witness as to the form of questions shall be noted for the record. If a witness objects to a question and refuses to testify on the basis of relevance or privilege, the Subcommittee Members or staff may proceed with the deposition, or may, at that time or at a subsequent time, seek a ruling by telephone or otherwise on the objection from the Chairman or such Subcommittee Member as designated by him. If the Chairman or designated Member overrules the objection, he may refer the matter to the Subcommittee or he may order and direct the witness to answer the question, but the Subcommittee shall not initiate procedures leading to civil or criminal enforcement unless the witness refuses to testify after he has been ordered and directed to answer by a Member of the Subcommittee.

9.4 Filing. The Subcommittee staff shall see that the testimony is transcribed or electronically recorded. If it is transcribed, the witness shall be furnished with a copy for review pursuant to the provisions of Rule 12. The individual administering the oath shall certify on the transcript that the witness was duly sworn in his presence, the transcriber shall certify that the transcript is a true record of the testimony, and the transcript shall then be filed with the Subcommittee clerk. Subcommittee staff may stipulate with the witness to changes in this procedure; deviations from this procedure which do not substantially impair the reliability of the record shall not relieve the witness from his obligation to testify truthfully.

10. Any witness desiring to read a prepared or written statement in executive or public hearings shall file a copy of such statement with the counsel or Chairman of the Subcommittee 48 hours in advance of the hearings at which the statement is to be presented unless the Chairman and the ranking minority Member waive this requirement. The Subcommittee shall determine whether such statement may be read or placed in the record of the hearing.

11. A witness may request, on grounds of distraction, harassment, personal safety, or physical discomfort, that during the testimony, television, motion picture, and other cameras and lights shall not be directed at him. Such requests shall be ruled on by the Subcommittee Members present at the hearing.

12. An accurate stenographic record shall be kept of the testimony of all witnesses in executive and public hearings. The record of his own testimony whether in public or executive session shall be made available for inspection by witness or his counsel under Subcommittee supervision; a copy of any testimony given in public session or that part of the testimony given by the witness in executive session and subsequently quoted or made part of the record in a public session shall be made available to any witness at his expense if he so requests.

13. Interrogation of witnesses at Subcommittee hearings shall be conducted on behalf of the Subcommittee by Members and authorized Subcommittee staff personnel only.

14. Any person who is the subject of an investigation in public hearings may submit to the Chairman of the Subcommittee questions in writing for the cross-examination of other witnesses called by the Subcommittee. With the consent of a majority of the Members of the Subcommittee present and voting, these questions, or paraphrased versions of them, shall be put to the witness by the Chairman, by a Member of the Subcommittee or by counsel of the Subcommittee.

15. Any person whose name is mentioned or who is specifically identified, and who believes that testimony or other evidence presented at a public hearing, or comment made by a Subcommittee Member or counsel, tends to defame him or otherwise adversely affect his reputation, may (a) request to appear personally before the Subcommittee to testify in his own behalf, or, in the alternative, (b) file a sworn statement of facts relevant to the testimony or other evidence or comment complained of. Such request and such statement shall be submitted to the Subcommittee for its consideration and action.

If a person requests to appear personally before the Subcommittee pursuant to alternative (a) referred to herein, said request shall be considered untimely if it is not received by the Chairman of the Subcommittee or its counsel in writing on or before thirty (30) days subsequent to the day on which said person's name was mentioned or otherwise specifically identified during a public hearing held before the Subcommittee, unless the Chairman and the ranking minority Member waive this requirement.

If a person requests the filing of his sworn statement pursuant to alternative (b) referred to herein, the Subcommittee may condition the filing of said sworn statement upon said person agreeing to appear personally before the Subcommittee and to testify concerning the matters contained in his sworn statement, as well as any other matters related to the subject of the investigation before the Subcommittee.

16. All testimony taken in executive session shall be kept secret and will not be released for public information without the approval of a majority of the Subcommittee.

17. No Subcommittee report shall be released to the public unless approved by a majority of the Subcommittee and after no less than 10 days' notice and opportunity for comment by the Members of the Subcommittee unless the need for such notice and opportunity to comment has been waived in writing by a majority of the minority Members.

18. The ranking minority Member may select for appointment to the Subcommittee staff a Chief Counsel for the minority and such other professional staff members and clerical assistants as he deems advisable. The total compensation allocated to such minority staff members shall be not less than one-third the total amount allocated for all Subcommittee staff salaries during any given year. The minority staff members shall work under the direction and supervision of the ranking minority Member. The Chief Counsel for the minority shall be kept fully informed as to preliminary inquiries, investigations, and hearings, and shall have access to all material in the files of the Subcommittee.

19. When it is determined by the Chairman and ranking minority Member, or by a majority of the Subcommittee, that there is reasonable cause to believe that a violation of law may have occurred, the Chairman and ranking minority Member by letter, or the Subcommittee by resolution, are authorized to report such violation to the proper State, local and/or Federal authorities. Such letter or report may recite the basis for the determination of reasonable cause. This rule is not authority for release of documents or testimony.•

FACES OF THE HEALTH CARE CRISIS IN MICHIGAN: WHEN THE LOSS OF A JOB MEANS THE LOSS OF HEALTH CARE COVERAGE

• Mr. RIEGLE. Mr. President, I rise today in my continuing effort to put a human face on the health care crisis in this country. Deborah and John Tumblin and their children from Hazel Park, MI, are experiencing firsthand what happens when a family loses its health insurance, a situation which more and more Americans are facing. Ms. Tumblin wrote to me last September to express her frustration over her family's difficulty in obtaining health care and her fears about what this will mean for their health and well-being.

Deborah and John have three children: David, 10; Chad, 6; and Kyle, 4. Until October 1992, the Tumblin family had health insurance provided through John's former employer, a local steel company. John was injured on the job in October 1990 and was unable to continue working. Since that time the family's only source of income was John's workman's compensation payments of $275 a week. Fortunately for the family, his employer continued to pay their $100 per month premium, allowing them to keep their health insurance. In October 1992, however, the company closed, resulting in the family's loss of health insurance coverage.

The Tumblins face a number of medical worries brought on by the loss of their health insurance. Deborah is 8 months pregnant and is considered high risk by her doctor. She has been ordered to stay in bed to avoid premature labor. Early in her pregnancy she was told that the cost of her prenatal care would be $2,500 and her labor/delivery charges would be approximately $1,200. In January the physician who had been treating Deborah told her that he could not continue her care unless she agreed to immediately pay a reduced charge of $1,400 that would have included the cost of prenatal care and delivery, but not the hospital charges.

Without health insurance, Deborah could not afford to pay even the reduced amount and was forced to change doctors. This was in the third trimester of her pregnancy. She feared that she would not be able to find a physician who would take on a high-risk pregnancy in such a late stage. Fortunately, the Obstetric High Risk Clinic at Beaumont Hospital accepted her as a patient.

John has a number of ongoing medical problems. His workman's compensation benefits only cover any medical treatments related to the shoulder and back problems resulting from his job-related injury. But John also suffers from pain and blurred vision in his right eye. His doctor claims that this condition is a result of his work-related injury. Workman's compensation will not pay for these treatments, however, because they do not consider it to be related to his job injury.

The Tumblins son Chad has a serious medical problem requiring constant treatment. He was born with a virus which has settled on his vocal cords. The virus has grown and produced laryngeal papillomas which may make it difficult for Chad to breath and could be fatal. Surgery is the only treatment option. He has already had surgery seven times, each costing $3,000 to $5,000, but doctors say that he may need additional surgery every 6 months.

Next month Chad will visit his ear, nose, and throat specialist to check the growth rate of his papillomas and determine if he will need surgery in April. This appointment will cost Deborah $110. In the past, these procedures and physician appointments had been covered by their insurance, Blue Care Network. Without health insurance, the Tumblins fear that they will not be able to afford to provide the medical treatments their son needs.

This family must make painful choices about their children's medical care. Recently, the three children suffered from a virus. Although she felt that they needed medical attention, Deborah couldn't afford to pay the $25 office call for each of the children. Her physician tried to insist that she at least bring Chad into the office as the virus could have complicated his medical condition. Deborah could not afford to do even this, and was forced to rely on getting an old prescription refilled.

Deborah applied for Medicaid benefits in December of last year. She is very frustrated with the complicated process people must go through when applying for these benefits. Deborah fully complied with the demands of the Department of Social Services by returning all the necessary paperwork in January. She has recently been notified that she will be covered by Medicaid, but not the rest of her family. The family's current income is too much for a family of five to qualify for benefits. She was told to reapply after the birth of her baby when the children may qualify because there will be six people in the family. She is not looking forward to going through this process for the second time.

The loss of a job and the high cost of health insurance have caused the Tumblins to lose not only their health

care coverage but also peace of mind. As is increasingly true for many families across the country, the current private health care system has failed them and the public system is proving to be inadequate to cover the family's health care needs. I will continue to do all that I can to make sure the Tumblin family and all Americans have access to high quality affordable health care.•

RULES OF PROCEDURE OF THE COMMITTEE ON GOVERNMENTAL AFFAIRS

• Mr. GLENN. Mr. President, I herewith submit a copy of rules of procedure adopted by the Committee on Governmental Affairs pursuant to Rule XXVI, section 2, Standing Rules of the Senate, and ask that they be printed in the RECORD at this point.

The rules of procedure follow:

RULES OF PROCEDURE OF THE COMMITTEE ON GOVERNMENTAL AFFAIRS

(Pursuant to Rule XXVI, Sec. 2, Standing Rules of the Senate)

RULE 1. MEETINGS AND MEETING PROCEDURES OTHER THAN HEARINGS

A. *Meeting dates.* The Committee shall hold its regular meetings on the first Thursday of each month, when the Congress is in session, or at such other times as the chairman shall determine. Additional meetings may be called by the chairman as he deems necessary to expedite Committee business. (Rule XXVI, Sec. 3, Standing Rules of the Senate.)

B. *Calling special Committee meetings.* If at least three members of the Committee desire the chairman to call a special meeting, they may file in the offices of the Committee a written request thereof, addressed to the chairman. Immediately thereafter, the clerk of the Committee shall notify the chairman of such request. If, within three calendar days after the filing of such request, the chairman fails to call the requested special meeting, which is to be held within seven calendar days after the filing of such request, a majority of the Committee members may file in the offices of the Committee their written notice that a special Committee meeting will be held, specifying the date and hour thereof, and the Committee shall meet on that date and hour. Immediately upon the filing of such notice, the Committee clerk shall notify all Committee members that such special meeting will be held and inform them of its date and hour. (Rule XXVI, Sec. 3, Standing Rules of the Senate).

C. *Meeting notices and agenda.* Written notices of Committee meetings, accompanied by an agenda, enumerating the items of business to be considered, shall be sent to all Committee members at least three days in advance of such meetings, excluding Saturdays, Sundays, and legal holidays in which the Senate is not in session. In the event that unforeseen requirements or Committee business prevent a three-day notice of either the meeting or agenda, the Committee staff shall communicate such notice and agenda, or any revisions to the agenda, as soon as practicable by telephone or otherwise to members or appropriate staff assistants in their offices.

D. *Open business meetings.* Meetings for the transaction of Committee or Subcommittee business shall be conducted in open session, except that a meeting or series of meetings on the same subject for a period of no more than fourteen calendar days may be closed to the public on a motion made and seconded to go into closed session to discuss only whether the matters enumerated in clause (1) through (6) below would require the meeting to be closed, followed immediately by a record vote in open session by a majority of the Committee or Subcommittee members when it is determined that the matters to be discussed or the testimony to be taken at such meeting or meetings—

(1) will disclose matters necessary to be kept secret in the interests of national defense or the confidential conduct of foreign relations of the United States;

(2) will relate solely to matters of Committee or Subcommittee staff personnel or internal staff management or procedure;

(3) will tend to charge an individual with crime or misconduct, to disgrace or injure the professional standing of an individual, or otherwise expose an individual to public contempt or obloquy or will represent a clearly unwarranted invasion of the privacy of an individual;

(4) will disclose the identity of an informer or law enforcement agent or will disclose any information relating to the investigation or prosecution of a criminal offense that is required to be kept secret in the interests of effective law enforcement;

(5) will disclose information relating to the trade secrets of financial or commercial information pertaining specifically to a given person if—

(A) an Act of Congress requires the information to be kept confidential by Government officers and employees; or

(B) the information has been obtained by the Government on a confidential basis, other than through an application by such person for a specific Government financial or other benefit, and is required to be kept secret in order to prevent undue injury to the competitive position of such person; or

(6) may divulge matters required to be kept confidential under other provisions of law or Government regulations. (Rule XXVI, Sec. 5(b), Standing Rules of the Senate.)

Notwithstanding the foregoing, whenever disorder arises during a Committee or Subcommittee meeting that is open to the public, or any demonstration of approval or disapproval is indulged in by any person in attendance at any such meeting, it shall be the duty of the chairman to enforce order on his own initiative and without any point of order being made by a member of the Committee or Subcommittee; *provided, further,* that when the chairman finds it necessary to maintain order, he shall have the power to clear the room, and the Committee or Subcommittee may act in closed session for so long as there is doubt of the assurance of order. (Rule XXVI, Sec. 5(d), Standing Rules of the Senate.)

E. *Prior notice of first degree amendments.* It shall not be in order for the Committee, or a Subcommittee thereof, to consider any amendment in the first degree proposed to any measure under consideration by the Committee or Subcommittee unless a written copy of such amendment has been delivered to each member of the Committee or Subcommittee, as the case may be, and to the office of the Committee or Subcommittee, at least 24 hours before the meeting of the Committee or Subcommittee at which the amendment is to be proposed. This subsection may be waived by a majority of the members present. This subsection shall apply only when at least 72 hours written notice of a session to mark-up a measure is provided to the Committee or Subcommittee.

F. *Meeting transcript.* The Committee or Subcommittee shall prepare and keep a complete transcript or electronic recording adequate to fully record the proceeding of each meeting whether or not such meeting or any part thereof is closed to the public, unless a majority of the Committee or Subcommittee members vote to forgo such a record. (Rule XXVI, Sec. 5(e), Standing Rules of the Senate.)

RULE 2. QUORUMS

A. *Reporting measures and matters.* A majority of the members of the Committee shall constitute a quorum for reporting to the Senate any measures, matters or recommendations. (Rule XXVI, Sec. 7(a)(1), Standing Rules of the Senate.)

B. *Transaction of routine business.* Five members of the Committee shall constitute a quorum for the transaction of routine business, provided that one member of the minority is present.

For the purpose of this paragraph, the term "routine business" includes the convening of a meeting and the consideration of any business of the Committee other than reporting to the Senate any measures, matters or recommendations. (Rule XXVI, Sec. 7(a)(1), Standing Rules of the Senate.)

C. *Taking testimony.* One member of the Committee shall constitute a quorum for taking sworn or unsworn testimony. (Rule XXVI, Sec. 7(a)(2) and 7(c)(2), Standing Rules of the Senate.)

D. *Subcommittee quorums.* Subject to the provisions of sections 7(a) (1) and (2) of Rule XXVI of the Standing Rules of the Senate, the Subcommittees of this Committee are authorized to establish their own quorums for the transaction of business and the taking of sworn testimony.

E. *Proxies prohibited in establishment of quorum.* Proxies shall not be considered for the establishment of a quorum.

RULE 3. VOTING

A. *Quorum required.* Subject to the provisions of subsection (E), no vote may be taken by the Committee, or any Subcommittee thereof, on any measure or matter unless a quorum, as prescribed in the preceding section, is actually present.

B. *Reporting measures and matters.* No measure, matter or recommendation shall be reported from the Committee unless a majority of the Committee members are actually present, and the vote of the Committee to report a measure or matter shall require the concurrence of a majority of those members who are actually present at the time the vote is taken. (Rule XXVI, Sec. 7(a) (1) and (3), Standing Rules of the Senate.)

C. *Proxy voting.* Proxy voting shall be allowed on all measures and matters before the Committee, or any Subcommittee thereof, except that, when the Committee, or any Subcommittee thereof, is voting to report a measure or matter, proxy votes shall be allowed solely for the purposes of recording a member's position on the pending question. Proxy voting shall be allowed only if the absent Committee or Subcommittee member has been informed of the matter on which he is being recorded and has affirmatively requested that he be so recorded. All proxies shall be filed with the chief clerk of the Committee or Subcommittee thereof, as the case may be. All proxies shall be in writing and shall contain sufficient reference to the pending matter as is necessary to identify it

and to inform the Committee or Subcommittee as to how the member establishes his vote to be recorded thereon. (Rule XXVI, Sec. 7(a)(3) and 7(c)(1), Standing Rules of the Senate.)

D. *Announcement of vote.* (1) Whenever the Committee by rollcall vote reports any measure or matter, the report of the Committee upon such a measure or matter shall include a tabulation of the votes cast in favor of and the votes cast in opposition to such measure or matter by each member of the Committee. (Rule XXVI, Sec. 7(c), Standing Rules of the Senate.)

(2) Whenever the Committee by rollcall vote acts upon any measure or amendment thereto, other than reporting a measure or matter, the results thereof shall be announced in the Committee report on that measure unless previously announced by the Committee, and such announcement shall include a tabulation of the votes cast in favor of and the votes cast in opposition to each such measure and amendment thereto by each member of the Committee who was present at the meeting. (Rule XXVI, Sec. 7(b), Standing Rules of the Senate.)

(3) In any case in which a rollcall vote is announced, the tabulation of votes shall state separately the proxy vote recorded in favor of and in opposition to that measure, amendment thereto, or matter. (Rule XXVI, Sec. 7 (b) and (c), Standing Rules of the Senate.)

E. *Polling.* (1) The Committee, or any Subcommittee thereof, may poll (a) internal Committee or Subcommittee matters including the Committee's or Subcommittee's staff, records and budget; (b) steps in an investigation, including issuance of subpoenas, applications for immunity orders, and requests for documents from agencies; and (c) other Committee or Subcommittee business other than a vote on reporting to the Senate any measures, matters or recommendations or a vote on closing a meeting or hearing to the public.

(2) Only the chairman, or a Committee member or staff officer designated by him, may undertake any poll of the members of the Committee. If any member requests, any matter to be polled shall be held for meeting rather than being polled. The chief clerk of the Committee shall keep a record of polls; if a majority of the members of the Committee determine that the polled matter is in one of the areas enumerated in subsection (D) of Rule 1, the record of the poll shall be confidential. Any Committee member may move at the Committee meeting following the poll for a vote on the polled decision, such motion and vote to be subject to the provisions of subsection (D) of Rule 1, where applicable.

RULE 4. CHAIRMANSHIP OF MEETINGS AND HEARINGS

The chairman shall preside at all Committee meetings and hearings except that he shall designate a temporary chairman to act in his place if he is unable to be present at a scheduled meeting or hearing. If the chairman (or his designee) is absent ten minutes after the scheduled time set for a meeting or hearing, the ranking majority member present shall preside until the chairman's arrival. If there is no member of the majority present, the ranking minority member present, with the prior approval of the chairman, may open and conduct the meeting or hearing until such time as a member of the majority arrives.

RULE 5. HEARINGS AND HEARINGS PROCEDURES

A. *Announcement of hearings.* The Committee, or any Subcommittee thereof, shall make public announcement of the date, time and subject matter of any hearing to be conducted on any measure or matter at least one week in advance of such hearing, unless the Committee, or Subcommittee, determines that there is good cause to begin such hearing at an earlier date. (Rule XXVI, Sec. 4(a), Standing Rules of the Senate.)

B. *Open hearings.* Each hearing conducted by the Committee, or any Subcommittee thereof, shall be open to the public, except that a hearing or series of hearings on the same subject for a period of no more than fourteen calendar days may be closed to the public on a motion made and seconded to go into closed session to discuss only whether the matters enumerated in clauses (1) through (6) below would require the hearing to be closed, followed immediately by a record vote in open session by a majority of the Committee or Subcommittee members when it is determined that the matters to be discussed or the testimony to be taken at such hearing or hearings—

(1) will disclose matters necessary to be kept secret in the interests of national defense or the confidential conduct of foreign relations of the United States;

(2) will relate solely to matters of Committee or Subcommittee staff personnel or internal staff management or procedure;

(3) will tend to charge an individual with crime or misconduct, to disgrace or injure the professional standing of an individual, or otherwise expose an individual to public contempt or obloquy or will represent a clearly unwarranted invasion of the privacy of an individual;

(4) will disclose the identity of an informer or law enforcement agent or will disclose any information relating to the investigation or prosecution of a criminal offense that is required to be kept secret in the interests of effective law enforcement;

(5) will disclose information relating to the trade secrets of financial or commercial information pertaining specifically to a given person if—

(A) an Act of Congress requires the information to be kept confidential by Government officers and employees; or

(B) the information has been obtained by the Government on a confidential basis, other than through an application by such person for a specific Government financial or other benefit, and is required to be kept secret in order to prevent undue injury to the competitive position of such person; or

(6) may divulge matters required to be kept confidential under other provisions of law or Government regulations. (Rule XXVI, Sec. 5(b), Standing Rules of the Senate.)

Notwithstanding the foregoing, whenever disorder arises during a Committee or Subcommittee meeting that is open to the public, or any demonstration of approval or disapproval is indulged in by any person in attendance at any such meeting, it shall be the duty of the chairman to enforce order on his own initiative and without any point of order being made by a member of the Committee or Subcommittee; *provided, further,* that when the chairman finds it necessary to maintain order, he shall have the power to clear the room, and the Committee or Subcommittee may act in closed session for so long as there is doubt of the assurance of order. (Rule XXVI, Sec. 5(d), Standing Rules of the Senate.)

C. *Full Committee subpoenas.* The chairman, with the approval of the ranking minority member of the Committee, is authorized to subpoena the attendance of witnesses or the production of memoranda, documents, records, or any other materials at a hearing or deposition, provided that the chairman may subpoena attendance or production without the approval of the ranking minority member where the chairman or a staff officer designated by him has not received notification from the ranking minority member or a staff officer designated by him of disapproval of the subpoena within 72 hours, excluding Saturdays and Sundays, of being notified of the subpoena. If a subpoena is disapproved by the ranking minority member as provided in this subsection, the subpoena may be authorized by vote of the members of the Committee. When the Committee or chairman authorizes subpoenas, subpoenas may be issued upon the signature of the chairman or any other member of the Committee designated by the chairman.

D. *Witness counsel.* Counsel retained by any witness and accompanying such witness shall be permitted to be present during the testimony of such witness at any public or executive hearing or deposition to advise such witness while he or she is testifying, of his or her legal rights; *provided, however,* that in the case of any witness who is an officer or employee of the government, or of a corporation or association, the Committee chairman may rule that representation by counsel from the government, corporation, or association or by counsel representing other witnesses, creates a conflict of interest, and that the witness may only be represented during interrogation by staff or during testimony before the Committee by personal counsel not from the government, corporation, or association or by personal counsel not representing other witnesses. This subsection shall not be construed to excuse a witness from testifying in the event his counsel is ejected for conducting himself in such manner so as to prevent, impede, disrupt, obstruct or interfere with the orderly administration of the hearings; nor shall this subsection be construed as authorizing counsel to coach the witness or answer for the witness. The failure of any witness to secure counsel shall not excuse such witness from complying with a subpoena or deposition notice.

E. *Witness transcripts.* An accurate electronic or stenographic record shall be kept of the testimony of all witnesses in executive and public hearings. The record of his or her testimony whether in public or executive session shall be made available for inspection by the witness or his or her counsel under Committee supervision; a copy of any testimony given in public session or that part of the testimony given by the witness in executive session and subsequently quoted or made part of the record in a public session shall be provided to any witness at his or her expense if he or she so requests. Upon inspecting his or her transcript, within a time limit set by the chief clerk of the Committee, a witness may request changes in the transcript to correct errors of transcription and grammatical errors; the chairman or a staff officer designated by him shall rule on such requests.

F. *Impugned persons.* Any person whose name is mentioned or is specifically identified, and who believes that evidence presented, or comment made by a member of the Committee or staff officer, at a public hearing or at a closed hearing concerning which there have been public reports, tends to inpugn his or her character or adversely affect his or her reputation may:

(a) file a sworn statement of facts relevant to the evidence or comment, which statement shall be considered for placement in the hearing record by the Committee;

(b) request the opportunity to appear personally before the Committee to testify in his or her own behalf, which request shall be considered by the Committee; and

(c) submit questions in writing which he or she requests be used for the cross-examination of other witnesses called by the Committee, which questions shall be considered for use by the Committee.

G. *Radio, television, and photography.* The Committee, or any Subcommittee thereof, may permit the proceedings of hearings which are open to the public to be photographed and broadcast by radio, television or both, subject to such conditions as the Committee, or Subcommittee, may impose. (Rule XXVI, Sec. 5(c), Standing Rules of the Senate.)

H. *Advance statements of witnesses.* A witness appearing before the Committee, or any Subcommittee thereof, shall provide 100 copies of a written statement and an executive summary or synopsis of his proposed testimony at least 48 hours prior to his appearance. This requirement may be waived by the chairman and the ranking minority member following their determination that there is good cause for failure of compliance. (Rule XXVI, Sec. 4(b), Standing Rules of the Senate.)

I. *Minority witnesses.* In any hearings conducted by the Committee, or any Subcommittee thereof, the minority members of the Committee or Subcommittee shall be entitled, upon request to the chairman by a majority of the minority members, to call witnesses of their selection during at least one day of such hearings. (Rule XXVI, Sec. 4(d), Standing Rules of the Senate.)

J. *Full Committee depositions.* Depositions may be taken prior to or after a hearing as provided in this subsection.

(1) Notices for the taking of depositions shall be authorized and issued by the chairman, with the approval of the ranking minority member of the Committee, provided that the chairman may initiate depositions without the approval of the ranking minority member where the chairman or a staff officer designated by him has not received notification from the ranking minority member or a staff officer designated by him of disapproval of the deposition within 72 hours, excluding Saturdays and Sundays, of being notified of the deposition notice. If a deposition notice is disapproved by the ranking minority member as provided in this subsection, the deposition notice may be authorized by a vote of the members of the Committee. Committee deposition notices shall specify a time and place for examination, and the name of the Committee member or members or staff officer or officers who will take the deposition. Unless otherwise specified, the deposition shall be in private. The Committee shall not initiate procedures leading to criminal or civil enforcement proceedings for a witness' failure to appear or produce unless the deposition notice was accompanied by a Committee subpoena.

(2) Witnesses may be accompanied at a deposition by counsel to advise them of their legal rights, subject to the provisions of Rule 5D.

(3) Oaths at depositions may be administered by an individual authorized by local law to administer oaths. Questions shall be propounded orally by Committee member or members or staff. If a witness objects to a question and refuses to testify, the objection shall be noted for the record and the Committee member or members or staff may proceed with the remainder of the deposition.

(4) The Committee shall see that the testimony is transcribed or electronically recorded (which may include audio or audio/video recordings). If it is transcribed, the transcript shall be made available for inspection by the witness or his or her counsel under Committee supervision. The witness shall sign a copy of the transcript and may request changes to it, which shall be handled in accordance with the procedure set forth in subsection (E). If the witness fails to sign a copy, the staff shall note that fact on the transcript. The individual administering the oath shall certify on the transcript that the witness was duly sworn in his presence, the transcriber shall certify that the transcript is a true record of the testimony, and the transcript shall then be filed with the chief clerk of the Committee. The chairman or a staff officer designated by him may stipulate with the witness to changes in the procedure; deviations from this procedure which do not substantially impair the reliability of the record shall not relieve the witness from his or her obligation to testify truthfully.

RULE 6. COMMITTEE REPORTING PROCEDURES

A. *Timely filing.* When the Committee has ordered a measure or matter reported, following final action the report thereon shall be filed in the Senate at the earliest practicable time. (Rule XXVI, Sec. 10(b), Standing Rules of the Senate.)

B. *Supplemental, minority, and additional views.* A member of the Committee who gives notice of his intention to file supplemental, minority or additional views at the time of final Committee approval of a measure or matter, shall be entitled to not less than three calendar days in which to file such views, in writing, with the chief clerk of the Committee. Such views shall then be included in the Committee report and printed in the same volume, as a part thereof, and their inclusion shall be noted on the cover of the report. In the absence of timely notice, the Committee report may be filed and printed immediately without such views. (Rule XXVI, Sec. 10(c), Standing Rules of the Senate.)

C. *Notice by Subcommittee chairmen.* The chairman of each Subcommittee shall notify the chairman in writing whenever any measure has been ordered reported by such Subcommittee and is ready for consideration by the full Committee.

D. *Draft reports of Subcommittees.* All draft reports prepared by Subcommittees of this Committee on any measure or matter referred to it by the chairman, shall be in the form, style, and arrangement required to conform to the applicable provisions of the Standing Rules of the Senate, and shall be in accordance with the established practices followed by the Committee. Upon completion of such draft reports, copies thereof shall be filed with the chief clerk of the Committee at the earliest practicable time.

E. *Impact statements in reports.* All Committee reports, accompanying a bill or joint resolution of a public character reported by the Committee, shall contain (1) an estimate, made by the Committee, of the costs which would be incurred in carrying out the legislation for the then current fiscal year and for each of the next five years thereafter (or for the authorized duration of the proposed legislation, if less than five years); and (2) a comparison of such cost estimates with any made by a Federal agency; or (3) in lieu of such estimate or comparison, or both, a statement of the reasons for failure by the Committee to comply with these requirements as impracticable, in the event of inability to comply therewith. (Rule XXVI, Sec. 11(a), Standing Rules of the Senate.)

Each such report shall also contain an evaluation, made by the Committee, of the regulatory impact which would be incurred in carrying out the bill or joint resolution. The evaluation shall include (a) an estimate of the numbers of individuals and businesses who would be regulated and a determination of the groups and classes of such individuals and businesses, (b) a determination of the economic impact of such regulation on the individuals, consumers, and businesses affected, (c) a determination of the impact on the personal privacy of the individuals affected, and (d) a determination of the amount of paperwork that will result from the regulations to be promulgated pursuant to the bill or joint resolution, which determination may include, but need not be limited to, estimates of the amount of time and financial costs required of affected parties, showing whether the effects of the bill or joint resolution could be substantial, as well as reasonable estimates of the recordkeeping requirements that may be associated with the bill or joint resolution. Or, in lieu of the forgoing evaluation, the report shall include a statement of the reasons for failure by the Committee to comply with these requirements as impracticable, in the event of inability to comply therewith. (Rule XXVI, Sec. 11(b), Standing Rules of the Senate.)

RULE 7. SUBCOMMITTEES AND SUBCOMMITTEE PROCEDURES

A. *Regularly establish Subcommittees.* The Committee shall have five regularly established Subcommittees. The Subcommittees are as follows:

Permanent Subcommittee on Investigations;

Regulation and Government Information;

General Services, Federalism, and the District of Columbia;

Oversight of Government Management; and

Federal Services, Post Office, and Civil Service.

B. *Ad hoc Subcommittees.* Following consultation with the ranking minority member, the chairman shall, from time to time, establish such ad hoc Subcommittees as he deems necessary to expedite Committee business.

C. *Subcommittee membership.* Following consultation with the majority members, and the ranking minority member of the Committee, the chairman shall announce selections for membership on the Subcommittees referred to in paragraphs A and B, above.

D. *Subcommittee meetings and hearings.* Each Subcommittee of this Committee is authorized to establish meeting dates and adopt rules not inconsistent with the rules of the Committee except as provided in Rules 2(D) and 7(E).

E. *Subcommittee subpoenas.* Each Subcommittee is authorized to adopt rules concerning subpoenas which need not be consistent with the rules of the Committee; *provided, however,* that in the event the Subcommittee authorizes the issuance of a subpoena pursuant to its own rules, a written notice of intent to issue the subpoena shall be provided to the chairman and ranking minority member of the Committee, or staff officers designated by them, by the Subcommittee chairman or a staff officer designated by him immediately upon such authorization, and no subpoena shall issue for at least 48 hours, excluding Saturdays and Sundays, from delivery to the appropriate offices, unless the chairman and ranking minority member waive the 48 hour waiting period or unless the Subcommittee chairman certifies in writing to the chairman and ranking minority member that, in his opinion, it is necessary to issue a subpoena immediately.

F. *Subcommittee budgets.* Each Subcommittee of this Committee, which requires authorization for the expenditure of funds for the conduct of inquiries and investigations, shall file with the chief clerk of the Committee, not later than January 10 of the first year of each new Congress, its request for funds for the two (2) 12-month periods beginning on March 1 and extending through and including the last day of February of the two following years, which years comprise that Congress. Each such request shall be submitted on the budget form prescribed by the Committee on Rules and Administration, and shall be accompanied by a written justification addressed to the chairman of the Committee, which shall include (1) a statement of the Subcommittee's area of activities, (2) its accomplishments during the preceding Congress detailed year by year, and (3) a table showing a comparison between (a) the funds authorized for expenditure during the preceding Congress detailed year by year, (b) the funds actually expended during that Congress detailed year by year, (c) the amount requested for each year of the Congress, and (d) the number of professional and clerical staff members and consultants employed by the Subcommittee during the preceding Congress detailed year by year and the number of such personnel requested for each year of the Congress. The chairman may request additional reports from the Subcommittees regarding their activities and budgets at any time during a Congress. (Rule XXVI, Sec. 9, Standing Rules of the Senate.)

RULE 8. CONFIRMATION STANDARDS AND PROCEDURES

A. *Standards.* In considering a nomination, the Committee shall inquire into the nominee's experience, qualifications, suitability, and integrity to serve in the position to which he or she has been nominated. The Committee shall recommend confirmation, upon finding that the nominee has the necessary integrity and is affirmatively qualified by reason of training, education, or experience to carry out the functions of the office to which he or she was nominated.

B. *Information Concerning the Nominee.* Each nominee shall submit the following information to the Committee:

(1) A detailed biographical resume which contains information relating to education, employment and achievements;

(2) Financial information, including a financial statement which lists assets and liabilities of the nominee and tax returns for the 3 years preceding the time of his or her nomination, and copies of other relevant documents requested by the Committee, such as a proposed blind trust agreement, necessary for the Committee's consideration; and,

(3) Copies of other relevant documents the Committee may request, such as responses to questions concerning the policies and programs the nominee intends to pursue upon taking office.

At the request of the chairman or the ranking minority member, a nominee shall be required to submit a certified financial statement complied by an independent auditor.

Information received pursuant to this subsection shall be made available for public inspection; *provided, however,* that tax returns shall, after review by persons designated in subsection (C) of this rule, be placed under seal to ensure confidentiality.

C. *Procedures for Committee inquiry.* The Committee shall conduct an inquiry into the experience, qualifications, suitability, and integrity of nominees, and shall give particular attention to the following matters:

(1) A review of the biographical information provided by the nominee, including, but not limited to, any professional activities related to the duties of the office to which he or she is nominated;

(2) A review of the financial information provided by the nominee, including tax returns for the three years preceding the time or his or her nomination;

(3) A review of any actions, taken or proposed by the nominee, to remedy conflicts of interest; and

(4) A review of any personal or legal matter which may bear upon the nominee's qualifications for the office to which he or she is nominated.

For the purpose of assisting the Committee in the conduct of this inquiry, a majority investigator or investigators shall be designated by the chairman and a minority investigator or investigators shall be designated by the ranking minority member. The chairman, ranking minority member, other members of the Committee and designated investigators shall have access to all investigative reports on nominees prepared by any Federal agency, except that only the chairman, the ranking minority member, or other members of the Committee, upon request, shall have access to the report of the Federal Bureau of Investigation. The Committee may request the assistance of the General Accounting Office and any other such expert opinion as may be necessary in conducting its review of information provided by nominees.

D. *Report on the Nominee.* After a review of all information pertinent to the nomination, a confidential report on the nominee shall be made by the designated investigators to the chairman and the ranking minority member and, upon request, to any other member of the Committee. The report shall summarize the steps taken by the Committee during its investigation of the nominee and identify any unresolved or questionable matters that have been raised during the course of the inquiry.

E. *Hearings.* The Committee shall conduct a public hearing during which the nominee shall be called to testify under oath on all matters relating to his or her suitability for office, including the policies and programs which he or she will pursue while in that position. No hearing shall be held until at least 72 hours after the following events have occurred: the nominee has responded to prehearing questions submitted by the Committee; and the report required by subsection (D) has been made to the chairman and ranking minority member, and is available to other members of the Committee, upon request.

F. *Action on confirmation.* A mark-up on a nomination shall not occur on the same day that the hearing on the nominee is held. In order to assist the Committee in reaching a recommendation on confirmation, the staff may make an oral presentation to the Committee at the mark-up, factually summarizing the nominee's background and the steps taken during the pre-hearing inquiry.

G. *Application.* The procedures contained in subsections (C), (D), (E), and (F) of this rule shall apply to persons nominated by the President to positions requiring their full-time service. At the discretion of the chairman and ranking minority member, those procedures may apply to persons nominated by the President to serve on a part-time basis.

RULE 9. PERSONNEL ACTIONS AFFECTING COMMITTEE STAFF

In accordance with title III of the Civil Rights Act of 1991 (P.L. 102-166), all personnel actions affecting the staff of the Committee shall be made free from any discrimination based on race, color, religion, sex, national origin, age, handicap or disability.●

ORDERS FOR MONDAY, MARCH 1, 1993

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until 10 a.m. on Monday, March 1; that on Monday, the Senate meet in pro forma session only; that at the close of the pro forma session, the Senate stand in recess until 10:30 a.m. on Tuesday, March 2; that on Tuesday, following the prayer, the Journal of proceedings be deemed approved to date; that following the time of the two leaders, there be a period for morning business not to extend beyond 11 a.m. with Senators permitted to speak therein for up to 5 minutes each; and that on Tuesday the Senate stand in recess from 12:30 p.m. until 2:15 p.m. in order to accommodate the regular party conference luncheons.

The PRESIDING OFFICER. Without objection, it is so ordered.

SCHEDULE

Mr. MITCHELL. Mr. President, I previously advised the distinguished Republican leader of my intentions with respect to the Senate schedule for the upcoming weeks of this legislative period.

I would like now to restate that for the benefit of all Senators so that all Senators can be aware of the legislative program.

On Tuesday, pursuant to a previous order, the Senate will take up legislation to extend the unemployment insurance program. Upon completion of that bill, it is my current intention that the Senate will proceed to consideration of the motor voter legislation. Following completion of that bill, it is my intention that the Senate will proceed to the consideration of the budget resolution, then to the economic stimulus and investment program proposed by President Clinton, and then to what I perceive will then be the necessary extension of the debt limit.

This is not intended to be a wholly exclusive list, so other matters may arise during that time. And, if I intend to bring any other matters up as is my regular practice, I will, of course, notify the Republican leader and other Senators in advance and as soon as possible. But this is intended to give Senators some idea of the legislative schedule with respect to major bills over the next few weeks.

RECESS UNTIL 10 A.M., MONDAY, MARCH 1, 1993

The PRESIDING OFFICER. Under the previous order, the Senate now stands in recess until 10 a.m., Monday.

Thereupon, the Senate, at 4:26 p.m., recessed until 10 a.m., Monday, March 1, 1993.

NOMINATIONS

Executive nominations received by the Senate February 25, 1993:

IN THE COAST GUARD

THE FOLLOWING REGULAR AND RESERVE OFFICERS OF THE U.S. COAST GUARD TO BE PERMANENT COMMISSIONED OFFICERS IN THE GRADES INDICATED:

To be lieutenant

THOMAS R. GREENE
MARK R. STEWART
DAVID J. MARTIN
BARRY L. FOX
DAWN A. FIDALEO
STEPHEN P. FINTON
AUDREY A. MCKINLEY
JAMES A. WILSON
FREDERICK E. BARTLETT
WILLIAM M. PITTMAN
RICHARD A. PAGLIALONGA
BRENTON P. LEBISH
C. M. GREENE
FELIX J. DANZ
KEITH R. BILLS
JAMES E. MULLEN
LANCE A. LINDSAY
SCOTT R. FRECK
WALTER F. CAPPS
ERIC G. WESTERBERG
RONNIE D. PATRICK
JAMES E. HANZALIK
JOHN J. URTIS
ADRIENNE P. MCCAMEY
JOHN G. KEETON
GREGORY J. COCHRAN
ROBERT F. OLSON
TIMOTHY J. CARTON
MITCHELL C. EKSTROM
MICHAEL D. CALLAHAN
RANDY G. ADOLF
DOUGLAS M. RUHDE
DARWYN A. WILMOTH
DAVID J. FORD
STEVEN M. SHERIDAN
JAMES B. NICHOLSON
GERALD F. DOLAN
JOSEPH L. DUFFY
ROBERT A. LAAHS
MATTHEW P. DUESING
JOEL D. BROWN
CEDRIC A. HUGHES
CARMEN T. LAPKIEWICZ
ANTHONY D. MORRIS
JOSEPH J. EPSTEIN
JAMES J. GRIFFIN
BRIAN K. GOVE
RUSSELL C. PROCTOR
DAVID S. FISH
MICHAEL A. JENDROSSEK
TONY C. CLARK
ROBERT D. PHILLIPS
KIRK W. PICKERING
STEVEN R. SATOR
KELLY R. WARNER
DANIEL R. HOLLAR
THEODORE R. SALMON
DAVID M. BEAUREGARD
MARK S. RYAN
PHILLIP A. PEREZ
ROBERT J. GREVE
PETER M. KILFOYLE
BRIAN K. MOORE
WILLIAM F. ADICKES
MARK J. WILBERT
THURMAN T. MAINE
CRAIG A. PETERSEN
ROBERT I. GRIFFIN
DONALD R. LING
JEFFREY S. HUDKINS
MARK J. GANDOLFO
DIRK A. GREENE
DAVID J. ROKES
NICHOLAS J. HUTCHINS
TODD A. TSCHANNEN
MICHAEL R. OLSON
SAMUEL J. SUMPTER
EUGENE R. BOLDUC
DAVID C. HAYNES
GREGORY S. JONES
STEPHEN T. NEWARK
JEFFREY D. GAFKJEN
MARY J. BILLETER
DANIEL L. LEBLANC
JOHN F. SCHNEIDER
JAMES E. PESCHEL
MICHAEL D. KING
MICHAEL P. MCCRAW
JEROME K. BRADFORD
JERRY T. MOORE
ERIC M. GIESE
JOSEPH S. COST
JANE C. WONG
ERIC T. SMALLWOOD
KIM C. FOSTVEDT
GEORGE J. TOLBERT
ROBERT T. SPAULDING
THEODORE D. LAMPTON
KARL L. FREY
DAVID J. HAMMEL
RICHARD L. HINCHION
TIMOTHY M. MCGUIRE
JEFFRY A. SIMMERMAN

To be lieutenant (junior grade)

JOHN E. SHALLMAN
PARTICK J. MCGILLVRAY
ROBERT W. SCRUGGS
DONALD E. JACCARD
GUS T. PILLA
RANDALL C. SCHNEIDER
RICARDO R. RODRIGUEZ
ROBERT M. ATADERO
THOMAS M. JENKINS
HAL R. PITTS
ROBERT P. STUDEBAKER
SCOTT A. MATTHEWS
THOMAS J. MORIARTY
SCOTT R. MCFARLAND
ROBERT B. WILSON
ROBERT D. PERKINS
FREDDIE J. MILBRY
TROY S. TAYLOR
CRAIG S. CROSS
TIMOTHY Y. DEAL
MARK E. REYNOLDS
JAMES R. FOGLE
NEIL E. MEISTER
RANDALL A. BARNABEE
STANLEY E. BALINT
RICHARD M. KEESLER
RANDALL D. FARMER
SUSAN J. WORKMAN
ERNESTO G. RUBIO
KENDALL C. PLAUTZ
KADJOL CHOUDHURY
MICHAEL F. WHITE
LARRY E. MEREDITH
CASEY J. PLAGGE
STEPHEN H. TORPEY
DAVID L. NICHOLS
DOUGLAS M. ELLIS
KELLY S. ROBERTS
EVA R. KUMMERFELD
DOUGLAS K. BRUCE
JOSEPH R. DOUGLAS
JAMES D. BAUGH
OLALEKAN A. ADERONMU
KATHLEEN MOORE
MARK R. WILLIAMS
RAYMOND A. ENGBLOM
WILLIAM R. BUTLER
ELMER O. EMERIC
ROBERT D. LEFEVERS
KELLY A. HOYLE
PAUL D. LIMBACHER
MARK S. MESERVEY
MATTHEW A. GRIM
GARRISON L. MOE
JASON K. CHURCH
RONALD K. CHILTON
CLAUDIA V. MCKNIGHT
ROBERT B. MAKOWSKY
LARRY P. PESEK
TROY K. DEIERLING
WILLIAM J. TRAVIS
THOMAS L. KAYE
RUSSELL H. MULLICK
STEPHEN J. BARTLETT
MARK A. JONES
CHRISTOPHER KOBI
LIONEL Q. MEW
MICHAEL G. TANNER
STUART H. EHRENBERG
TODD J. CAMPBELL
PATRICIA A. MCFETRIDGE
THOMAS C. GETSY
ROBIN J. KORTUS
PAUL D. MARSHALL
BRIAN T. ELLIS
JOHN C. O'CONNOR

IN THE AIR FORCE

THE FOLLOWING OFFICERS, U.S. AIR FORCE OFFICER TRAINING SQUADRON FOR APPOINTMENT AS SECOND LIEUTENANTS IN THE REGULAR AIR FORCE, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 531, WITH DATES OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE:

SHYAMALI ARMSTRONG xxx-xx-x...
RAYMOND W. BEAL xxx-xx-x...
EDMUND J. BOHN xxx-xx-x...
KEVIN F. CIOCCA xxx-xx-x...
JONATHAN B. CLAUNCH xxx-xx-x...
JAMES W. CREESE xxx-xx-x...
GREGORY J. EHLERS xxx-xx-x...
KIMBERLY D.ESTES xxx-xx-x...
JOHN W. GILES, JR xxx-xx-x...
SCOTT D. GRIFFITH xxx-xx-x...
J. MICHAEL W. JAGGERS xxx-xx-x...
BRYAN H. KAUFMAN xxx-xx-x...
MARTIN KLUBECK xxx-xx-x...
GREGORY MANORA xxx-xx-x...
WILLIAM PAUL MILLER, JR xxx-xx-x...
DEBRA E. PERKINS xxx-xx-x...
PETER B. PHILBRICK xxx-xx-x...
JUSTIN M. RICE xxx-xx-x...
LAURENCE E. ROBERTS xxx-xx-x...
AMY R. ROBINSON xxx-xx-x...
ANDREW J. RYAN xxx-xx-x...
DONALD W. SCHIBER xxx-xx-x...
GENA R. STUCHBERY xxx-xx-x...
JONNA D. WARDRIP xxx-xx-x...
CHRISTOPHER A. WORLEY xxx-xx-x...